



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0098

Re: Property at 221J Albert Street, Dundee, DD4 6QA ("the Property")

Title No: ANG27674

The Parties:-

MR JOHN DICKSON *c/o* CGR Properties, DIA Business Properties, Meadowmill, West Henderson's Wynd, Dundee, DD1 5BY (represented by his agent Mr Ryan Monks, CGR Properties) ("the Landlord")

MR PAUL SYME residing at 221J Albert Street, Dundee, DD4 6QA (represented by his agent Mr Alan Findlay of Bruce Short & Co. Solicitors, Dundee) ("the Tenant")

NOTICE TO JOHN DICKSON ("the Landlord")

Whereas in terms of their decision dated 25 June 2015 the Private Rented Housing Committee determined that the landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act") and in particular that the landlord has failed to ensure that:-

- (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (c) The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;

the Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the landlord:-

- (a) To carry out such works as are necessary to provide adequate ventilation within the Property.
- (b) To obtain a roof report over the larger tenement subjects and to carry out any works required thereafter to ensure that the Property is properly wind and watertight and free from water penetration.
- (c) To carry out such works of repair or replacement to the gutters, rhones and downpipes to ensure that they are in proper working order and meet the repairing standard.
- (d) To carry out such works as are necessary to allow the issue of an electrical installation condition report over the Property containing no items marked "C1" or "C2".

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 3 months from the date of service of this Notice.

A landlord or a tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on _____ before this witness:-

witness

Ewan Miller Chairman

~~Lindsay Johnston~~ *SHEILA AARH*
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ



Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

prhp Ref: PRHP/RP/15/0098

Re: Property at 221J Albert Street, Dundee, DD4 6QA ("the Property")

The Parties:-

MR PAUL SYME residing at 221J Albert Street, Dundee, DD4 6QA (represented by his agent Mr Alan Findlay of Bruce Short & Co. Solicitors, Dundee) ("the Tenant")

MR JOHN DICKSON c/o CGR Properties, DIA Business Properties, Meadowmill, West Henderson's Wynd, Dundee, DD1 5BY (represented by his agent Mr Ryan Monks, CGR Properties) ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by both the Landlord and the Tenant at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 23 February 2015 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
 - (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
 - (c) The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;
3. By letter dated 20 March 2015 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than his original application. The Landlord made written representation to the Committee.

6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member; Mr D Godfrey, Surveyor Member; and Mrs I Kitson, Housing Member) inspected the Property on the morning of 19 May 2015. The Tenant and his agent were present during the inspection. The Landlord's agent was present during the inspection.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Douglas Community Centre, Douglas, Dundee and heard from the Tenant and his agent and the Landlord's agent.
8. In the Tenant's submission there were a number of defects in the Property. The Tenant complained of damp entering the Property in the lounge, bathroom, kitchen and the third bedroom (used as a store room). The Tenant submitted that the rhones and the gutters were defective and this was allowing water into the premises. The Tenant had also complained the electrical system in the Property was unsafe. The Tenant and his representative appreciated that there were some difficulties for the Landlord in organising other landlords within the tenement in carrying out communal works but nonetheless the lack of progress was having a negative impact on the Tenant's health.
9. The Landlord's submitted that it was accepted that works required to be done. The Landlord's agent provided evidence that the Landlord had paid money into a communal account with other proprietors in an attempt to have communal works attended to. However an insufficient number of proprietors had paid money to date and accordingly works had not been progressed. The Landlord's agent did assure the Committee that the Landlord was conscious of the need to carry out works and that he was doing his best on behalf of the Landlord to move matters forward.

Summary of the issues

10. The issues to be determined are:-

- (1) Whether there was excessive damp within the Property.
- (2) Whether the roof was leaking at various points and causing damage in the Property.
- (3) Whether the rhones, downpipes and gutters were defective.
- (4) Whether the electrical system within the Property was safe.

Findings of fact

11. The Committee found the following facts to be established:-

- Generally there was not excessive damp within the Property but rather there was evidence of condensation caused by a lack of proper ventilation within the Property.
- The rhones, gutters and downpipes were defective and not in proper working order.
- The roof had been leaking in the past and may not be properly wind and watertight. There was evidence of previous water penetration, particularly in relation to the store room.
- The electrics were dated and there was a material possibility that they did not meet the repairing the standard.

Reasons for the decision

12. The Committee based its decision primarily on the evidence obtained during the course of the inspection. The Committee first inspected the lounge within the Property. The Tenant highlighted mould within a cupboard and mould on the wall behind the main couch in the lounge. The Surveyor Member took meter readings in the Property with a damp meter.

There were no excessive readings and it was the opinion of the Committee that the mould was being caused by condensation. The same was true in relation to the bathroom and kitchen within the Property. The Committee did note, however, that contrary to the relevant regulations there was no ventilation in the windows or otherwise within the Property. The Landlord would require to install some form of ventilation as the lack of ventilation was undoubtedly contributing to the condensation and mould within the Property. Whilst it was for the Landlord to determine the best way of providing ventilation, it appeared to the Committee that installing vents in the double glazing may well be the most appropriate solution.

The Committee also inspected the store room/bedroom within the Property. It was clear there had been significant water penetration in the past and replastering works had been carried out. As a minimum the Landlord would require to carry out redecoration of the damaged plasterwork and to eradicate any further water penetration. Signs of water penetration and fungus were observed at the new plasterwork which would suggest that water was still entering the Property in this area. The Landlord's agent indicated that whilst the room had been replastered, no roof repairs had been carried out or any works to the gutters/rhones/downpipes. The committee was of the view that the Landlord would require to obtain a roofing report on the roof of the tenement with a view to ascertaining what works were required to render the Property properly wind and watertight. The Landlord would require to carry out any works recommended by the roofing report. The Committee also noted that the rhones, gutters and downpipes at the Property were very dated and in places were cracked or missing altogether. This was clearly not assisting the condition of the tenement and would require to be addressed.

The Committee carried out a visual examination of the electrical system within the Property. The fuseboard at the Property was dated. The Committee noted that there was a socket within a skirting board, which went against the relevant regulations. In view of the age of the system, the Committee felt it appropriate that the Landlord obtain an electrical installation condition report and carry out any works recommended by the Report to ensure there were no items marked "C1" or "C2" in the report.

Although not complained of, the Committee noted that there was one hardwired smoke alarm within the Property. Although not forming part of any order, the Committee would expect the Landlord to ensure that an up to date smoke detection system was installed which would mean installing an additional hardwired smoke detector in the lounge and a heat detector in the kitchen.

The Committee also noted that the Tenant was complaining of insects within the second bedroom. There was no evidence of any such insects on the day and no specific complaint had been made within the application. Accordingly the Committee was satisfied this fell outwith its jurisdiction and the parties would require to resolve this issue between themselves.

The Committee considered the period in which the Landlord should be given to carry out the various works required. The Committee was conscious that the Landlord would require to liaise with other landlords within the block. However the Committee was also conscious that matters appeared to have been drifting for some time and wished to ensure there was some impetus maintained to ensure that works were carried out in a reasonably short order. After consideration the Committee was satisfied that a period of 3 months would be sufficient for the Landlord to carry out the works. The Committee was conscious that some works (the electrical installation condition report and the ventilation) could be carried out without the need for the Landlord to liaise with others and there was no reason for these works not to be done immediately.

Decision

13. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

14. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

15. The decision of the Committee was unanimous.

Right of Appeal

16. **A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.**

Effect of section 63

17. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Ewan Miller

Signed Date..... 25/6/2015
Chairperson