



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Reference Number: PRHP/RP/15/0112

Re: Property at 10 Strathspey Crescent, Airdrie, ML6 6JE all as more particularly described in and registered in Land Certificate LAN47029 (hereinafter referred to as "the property").

The Parties:-

Miss Eva Cupples ("the Tenant")

Ms Cate McDonald, also known as Ms Catherine Sharon MacDonald, 31 Jenny Burton Way, Hucknall, Nottingham, NG15 7QS ("the Landlord")

NOTICE TO

Ms Cate McDonald, also known as Ms Catherine Sharon MacDonald, 31 Jenny Burton Way, Hucknall, Nottingham, NG15 7QS ("the Landlord")

Whereas in terms of their decision dated 2 August 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 the Landlord has failed to ensure that: the house is wind and watertight and in all other aspects fit for human habitation, the structure and exterior of the house are in a reasonable state of repair and in proper working order, the installations in the house 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, any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order and the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

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 produce an up to date electrical installation condition report that the said installation meets BS 7671 and an in service inspection and test report on all

electrical appliances and equipment from a competent suitably qualified and registered electrician.

- (b) To produce an up to date gas safety record and report by a suitably qualified Gas Safe registered engineer to address the state of repair and working order of the central heating system, including the central heating boiler and flue, and hot water supply in the property.
- (c) To repair the loose socket located on the wall beside the cooker in the kitchen
- (d) To repair or replace the shower screen and adjoining sealant to prevent water from escaping from the bath onto the floor below.
- (e) To install a smoke alarm in the living room and in the ground floor hallway and a heat alarm in the kitchen and to ensure that all of these alarms are hardwired alarms and interlinked with one another.
- (f) To clean the gutter at the rear of the property to ensure that it is in proper working order.
- (g) To repair or replace the boundary fence located at the rear of the property between the property and Number 9 Strathspey Crescent, Airdrie.
- (h) To carry out such repairs as are required to ensure that the garage is wind and watertight.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 28 days 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 an 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 an 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 page and the preceding page are executed by Patricia Anne Pryce, Chairperson of the Private Rented Housing Committee at Glasgow 17 August 2015 before this witness:-

Signed **P Pryce**
Patricia Anne Pryce, Chairperson

Date 17th August 2015

N Pryce

WITNESS

NICHOLAS PRYCE
c/o ASQ INSURANCE
55 BLYTHSWOOD ST
GLASGOW
ACCOUNTANT



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

Reference Number: PRHP/RP/15/0112

Re: Property at 10 Strathspey Crescent, Airdrie, ML6 6JE all as more particularly described in and registered in Land Certificate LAN47029 (hereinafter referred to as "the property").

The Parties:-

Miss Eva Cupples ("the Tenant")

Ms Cate McDonald, also known as Ms Catherine Sharon MacDonald, 31 Jenny Burton Way, Hucknall, Nottingham, NG15 7QS ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purpose of determining whether the Landlord has complied with the duty imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property concerned and, taking account of the evidence submitted by both the Landlord and the Tenant, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

The Committee consisted of:-

Patricia Anne Pryce	-	Chairperson
Carol Jones	-	Surveyor Member
Mary Lyden	-	Housing Member

Background

1. By application comprising of all documents received in the period 30 March to 11 May, both 2015, from the Tenant, the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14 (1) (b) of the Act.

2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with her duty to ensure that the property meets the repairing standard and the Tenant brought forward the following breaches:-

That there was dampness in the back bedroom and in the kitchen bottom cupboards nearest the window.

That there was a loose socket in the kitchen next to the cooker and an unsafe socket installed recently underneath the kitchen sink which was installed by an unregistered person.

That the electric box was replaced by an unregistered person who said that there was further fault with the wiring in the property.

That the cold tap in the bathroom sink was not working.

That the shower over the bath was causing a leak into the living room below causing unknown damage to the living room ceiling below, the shower had been broken and unable to be used since mid-January.

That the gas boiler was losing pressure which was covered by British Gas cover and that an employee of British Gas had advised that a part of the boiler required to be replaced and that the request to replace the part would be forwarded to the Landlord.

That there was no Energy Performance Certificate ("EPC") for the property.

That there was no carbon monoxide detector.

That there was only one smoke alarm in the upstairs hall.

That the rear gutter requires cleaning and repair as it was causing dampness in the back bedroom and possibly in the kitchen at the outside back wall.

That the fence between the property and the property at Number 9 Strathspey Crescent, Airdrie was in a very bad state of repair.

That the wood around the garage roof was broken and decaying causing the garage to flood.

The Tenant considers that the Landlord is in breach of her duties under the Housing (Scotland) Act 2006 in relation to the repairing standard and in particular the Landlord has failed to ensure:-

- (i) The house is wind and watertight and in all other respects reasonably fit for human habitation.
- (ii) The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.

- (iii) The installations in the house 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.
- (iv) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
- (v) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or of suspected fire.

Although the Tenant did not tick the box on the form in respect of subparagraph (ii) above, the Committee is of the view that the Landlord had been provided with sufficient notice of this particular complaint by the Tenant as the Tenant had fully described this within the documentation which comprised her present application.

3. By Minute dated 18 May 2015 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 23(1) of the Act to a Private Rented Housing Committee.
4. On 9 June 2015, the Private Rented Housing Committee (PRHC) wrote to the Landlord and to the Tenant to advise that the Private Rented Housing Committee intended to inspect the property on 28 July 2015 at 10 am. The letter further confirmed that a Hearing had been arranged in relation to the application, which Hearing would be held in the Office of the PRHP, Europa Building, 450 Argyle Street, Glasgow, G2 8LH commencing at 11:30.
5. The Committee issued a Direction on 18 June 2015 in terms of Schedule 2 Paragraphs 2(1) and 3(1)(b) of the Housing (Scotland) Act 2006 and Regulation 14 of the Private Rented Housing Panel (Applications and Determinations)(Scotland) Regulations 2007 to the parties that the Landlord required to provide to the Committee an up to date electrical installation condition report that the said installation meets BS 7671 and an in service inspection and test report on all electrical appliances and equipment from a competent suitably qualified and registered electrician and an up to date gas safety record and report by a suitably qualified Gas Safe registered engineer to address the state of repair and working order of the central heating system, including the central heating boiler and flue, and hot water supply in the property. . The Landlord failed to comply with this Direction. It is the view of the Committee that the Landlord should be reported to Police Scotland as a result of this failure to comply with the said Direction.

The Inspection

6. On 28 July 2015, the Committee attended at the property for the purposes of inspection of the property. The Tenant was present at the inspection along with her two young children. The Landlord did not attend the inspection.

At the inspection on 28 July 2015, the Committee noted the following points:-

- (a) The property comprises a three apartment semi-detached villa over two floors, constructed in the 1980s and located in a residential area around 1.5 miles north of Airdrie town centre.
- (b) The ground floor of the property comprises an entrance hallway, a living room and a kitchen.
- (c) The first floor of the property comprises two bedrooms and a bathroom.
- (d) There was no dampness in the back bedroom.
- (e) There was no dampness in the kitchen cupboards although there was evidence of condensation.
- (f) There was a loose electrical socket situated on the wall beside the cooker.
- (g) The electrical socket which had been recently fitted under the sink did not appear to the Committee to be unsafe.
- (h) The electrical box had been replaced and appeared new but the Committee had no way of knowing whether there was a further electrical fault in the property without the benefit of an electrical report which the Committee had directed the Landlord to produce. The Tenant advised the Committee that the workman who had carried out all of the recent electrical work in the property at the instruction of the Landlord had told the Tenant that he was retired, not registered and was a friend of the Landlord's family.
- (i) The cold tap in the bathroom wash hand basin had been repaired and was in working order.
- (j) The shower over the bath had been replaced and was in working order. However, the water from the shower continued to escape over the bath when the shower was in use due to a gap between the shower screen and the bath causing the water to escape onto the bathroom floor. The Tenant kept a rolled up towel on the bathroom floor for the purpose of catching the escaping water and the towel which was there during the inspection was sodden. It was apparent that an attempt had been made to reseal the top of the bath but this was obviously inadequate. The Tenant removed the bath panel and it was clear that the bathroom floor under the shower end of the bath was damp.
- (k) A carbon monoxide detector had been installed in the entrance hallway adjacent to the cupboard where the boiler was situated.
- (l) The Tenant advised that the boiler had been fixed but that the workman from British Gas had advised that the problem with loss of pressure would continue to occur as the boiler required a replacement part and that the Landlord had been advised of this in 2009.
- (m) There was evidence of staining in the living room ceiling but this appeared to be historical in nature.
- (n) There was only one smoke alarm which was located on the ceiling of the upper landing on the first floor of the property.

- (o) The gutter located at the rear of the property had been replaced but required to be cleaned as it appeared to be blocked due to vegetation and was not in proper working order.
- (p) The fence located between the property and Number 9 Strathspey Crescent was dilapidated, had a section missing and was in a poor state of repair.
- (q) The timber fascia around the roof of the garage was broken, rotten and decaying. The gutter at the back of the garage was hanging off. As a result, water flowed freely into the garage and the garage was not wind and watertight. The garage door did not open properly and required to be held up by the Tenant to allow the Committee to view inside the garage. The door was in a dangerous state of repair, although it did not form part of the present application by the Tenant.

The surveyor member of the Committee took several photographs which form the Schedule which is attached to this decision.

The Hearing

7. At the inspection, the Tenant had advised the Committee that she could not attend the hearing as she required to look after her children and she was in the process of moving into a new property. The Landlord did not appear at the hearing nor was she represented at the hearing. The Committee decided to proceed with the hearing in terms of Regulation 24 of the Private Rented Housing Panel (Applications and Determinations)(Scotland) Regulations 2007 in the absence of the Landlord as the Committee was satisfied that the terms of Regulation 19 of the said Regulations had been complied with in terms of providing the Landlord with sufficient notice of the hearing. The Committee proceeded with the hearing considering all the material placed before it together with all of the representations which had been made by the parties.

Discussion on the Evidence

8. The Committee reviewed the documents before it which comprised the Tenant's present application together with the brief emails which had been received from a Mr Richard Darrington who advised that he was the representative of the Landlord, that the Committee should stop wasting its time on the present application and deal with genuine cases and that the Tenant has given her notice advising that she was moving out. These emails from Mr Darrington were dated and received by the PRHP on 10 and 17 July 2015. The Landlord did not provide substantive written representations in response to the Tenant's present application. The Committee also considered what it had viewed during the inspection of the property. The Committee is satisfied on the evidence that the Landlord has failed to meet the repairing standard in respect of the property. At the time of inspection, there was a loose socket in the kitchen, there was water escaping from the shower onto the bathroom floor, there was only one smoke alarm in the whole property, the gutter to the rear of the property was blocked by vegetation, the boundary fence was falling down and the garage was in a very poor state of

repair and was not wind and watertight. The Committee also noted that the Landlord did not produce an EPC neither to the Tenant nor to the Committee.

Given all of the circumstances, the Committee was satisfied that the house is not wind and watertight and in all other respects reasonably fit for human habitation as water freely flowed into the garage, that the structure and exterior of the house (including the drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order as the rear gutter is blocked, that the fixtures, fittings and appliances provided by the Landlord under the tenancy agreement are not in a reasonable state of repair and in proper working order as there is a loose socket and the recent electrical work may have been carried out by an unregistered workman and that the house does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Decision

9. The Committee accordingly determines that the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24 (1) of the Act.

10. The decision of the Committee was unanimous.

11. The Private Rented Housing Committee require the Landlord to carry out such works as are necessary to ensure that the property meets the Repairing Standard.

12. The Committee considered that it would be reasonable to allow a period of 28 days from the date of the RSEO to carry out these works.

Reasons for Decision

13. The Committee considers that the Landlord has had sufficient time to carry out all of the outstanding repairs.

The Committee considers that the Landlord has failed in his duty under Section 14(1)(b) of the Act and has not complied with the repairing standard in terms of Sections 13 (1) (a), 13(1)(b), 13(1)(c), 13 (1) (d) and 13(1)(f) of that Act.

Observations

14. It is of concern to the Committee that the state of the garage door within the property represents a potential danger to the Tenant and to her young

children insofar as the heavy and large garage door requires to be held up in order to gain access to the garage. The Committee regrets that this did not form part of the Tenant's present application. Furthermore, the Committee would strongly recommend that the Landlord repairs the garage door as a matter of urgency as in its present state it could maim or even kill someone. In addition, the Committee regrets that the Landlord did not comply with the Direction which it issued as the Committee has no way of verifying whether or not the electrical and gas installations are in a reasonable state of repair and in proper working order without production of the reports it sought within the said Direction.

Right of Appeal

15. 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

16. 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.

Signed **P Pryce**

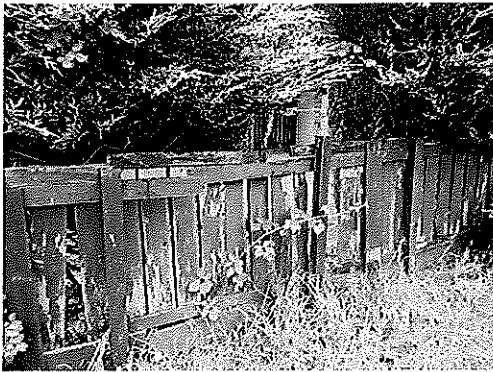
Patricia Anne Pryce

Chairperson

Date 17 August 2015



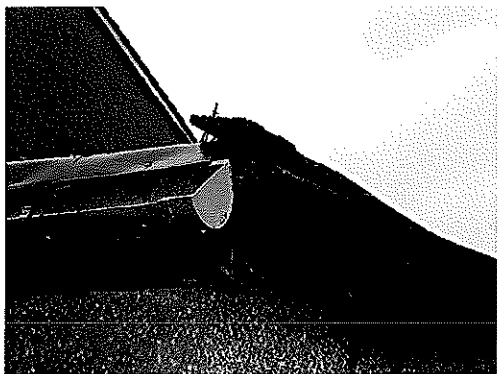
10 Strathspey Crescent, Airdrie PRHP/RP/
15/0112- Photos taken on 28th July 2015



Rear boundary fence



Rear Boundary fence



Gutter to rear of garage



Garage fascia



Garage fascia



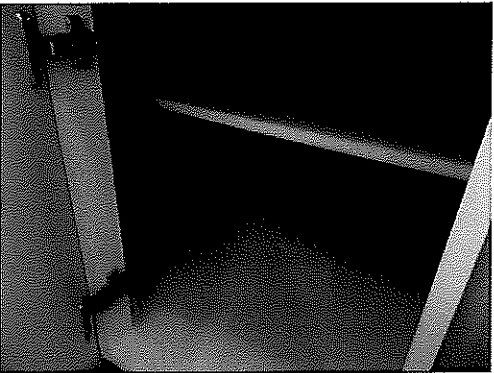
Garage internal



Garage internal



Garage floor



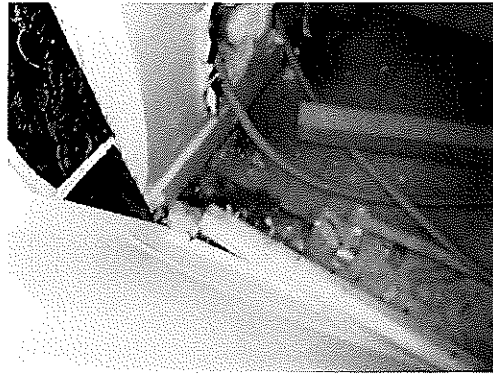
Kitchen Cupboard



Rear Bedroom - corner on back/gable wall



Bookcase removed from rear bedroom



Floor under bath



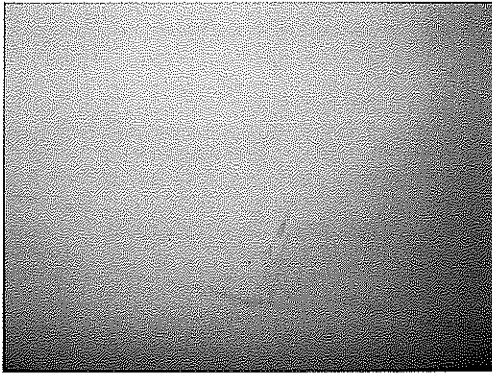
Seal to bath



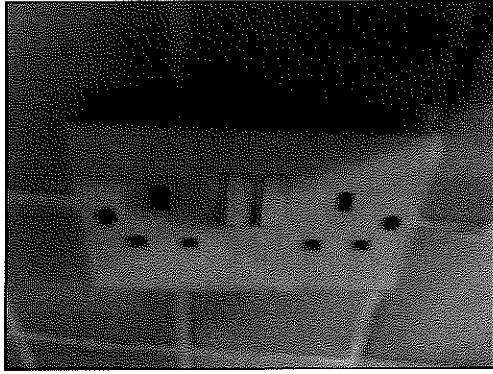
Shower screen/seal



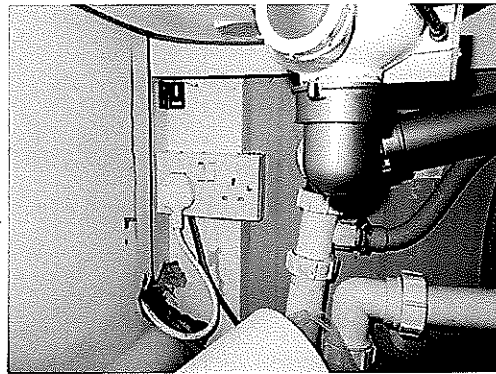
Battery Smoke alarm landing



Stain on living room ceiling



Loose double socket kitchen above worktop near cooker



Double socket under sink in kitchen



New consumer unit



New Carbon Monoxide alarm on wall outside cupboard in front vestibule