



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0191

Re: Property at Flat 1/1, 98 Raeberry Street, Glasgow G20 6EG ("the Property")

Title No: GLA209787

The Parties:-

CHRISTINA MacNEIL, residing at Flat 1/1, 98 Raeberry Street, Glasgow G20 6EG ("the Tenant")

LAWRENCE NORMAN VALLANCE and MAUREEN SHEILA VALLANCE, Spouses, residing at 16 Lynton Avenue, Whitecraigs, Glasgow ("the Landlords")

Committee members:-

Richard Mill (Chairman) and David Godfrey (Surveyor Member)

NOTICE TO LAWRENCE NORMAN VALLANCE and MAUREEN SHEILA VALLANCE, Spouses ("the Landlords")

Whereas in terms of their decision dated 12 November 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 the property meets the Repairing Standard in respect of:-

Section 13(1)(a): the house is wind and watertight and in all other respects reasonably fit for human habitation.

Section 13(1)(b): whether 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.

Section 13(1)(f): 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 Landlords to carry out such work as is necessary for the purposes of ensuring that the Property 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 Landlords:

1. To instruct a suitably qualified contractor to survey the decayed timber framed window within the main bedroom of the Property and to overhaul and repair same.

2. To instruct the installation of smoke alarms within the Property in accordance with the Scottish Government revised statutory guidance in force.
3. To instruct a suitably qualified contractor to remedy the cracks within the walls, ceilings and cornices of the Property and take such action to re-decorate as a consequence of such work as becomes necessary.
4. To instruct a suitably qualified tradesman to take remedial steps to ensure that the door to the main bedroom of the Property opens and closes.

The Private Rented Housing Committee requires that the works specified in this Order must be carried out and completed within 6 weeks from the date of service of this Notice.

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.

Where such an appeal is made, the effect of the decision and 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 typewritten on this and the preceding page(s) are executed by Richard Mill, Solicitor, chairperson of the Private Rented Housing Committee at Edinburgh on the Thirteenth day of November Two Thousand and Fifteen before this witness:-

M MURRAY

R MILL

witness

chairman

Margaret Johnstone Murray
21 Stafford Street
Edinburgh
EH3 7BJ

Legal Secretary

Ref PRHP/RP/15/0191



Private Rented Housing Committee

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

Re: Flat 1/1, 98 Raeberry Street, Glasgow G20 6EG (“the Property”)

Title Number: GLA209787

The Parties:-

CHRISTINA MacNEIL, residing at Flat 1/1, 98 Raeberry Street, Glasgow G20 6EG (“the Tenant”)

LAWRENCE NORMAN VALLANCE and MAUREEN SHEILA VALLANCE, Spouses, residing at 16 Lynton Avenue, Whitecraigs, Glasgow (“the Landlords”)

Committee members:-

Richard Mill (Chairman) and David Godfrey (Surveyor Member)

Decision

The committee, having made enquiries for the purposes of determining whether the Landlords have failed with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the Property, determined that the Landlords have failed to comply with the duty imposed by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard.

Background

1. By way of application dated 23 June 2015, and received on 25 June 2015, the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords had failed to comply with the duties imposed by Section 14(1)(b) of the Act in respect of the Property.
2. In the application the Tenant stated that the Landlords had failed to comply with their duty to ensure that the house meets the Repairing Standard in a number of respects. The relevant aspects of the Repairing Standard put at issue are those contained within Sections 13(1)(a), (b) and (f) which are in the following terms:-
 - whether the house is wind and watertight and in all other respects reasonably fit for human habitation.
 - whether 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.
 - whether the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. The complaints of Tenant were specifically the following:-
 - it was stated that the bedroom window frame was decayed.
 - it was stated that the hard wired fire detector previously installed had been disconnected some 3 years ago.
 - it was stated that the walls in the kitchen, hallway, bedroom and sitting room are full of cracks.
4. Notices of Referral were issued to parties on 5 October 2015.

Inspection

5. The committee inspected the Property on 10 November 2015 at 11.00 am. Mr Peter MacNeil, the applicant's husband and co-tenant, invited the committee members into the Property and directed them around. The Landlords were not present but were represented by Ian Donald, Chartered Surveyor of Messrs Murray & Muir and Richard Taylor, solicitor of Messrs Edzell Property Management.

Hearing

6. Following the inspection of the Property the committee convened a Hearing at Wellington House, 134-136 Wellington Street, Glasgow G2 2XL. The only person in attendance was Richard Taylor of Messrs Edzell Property Management.

Summary of the issues

7. The issues to be determined by the committee are whether or not the Property meets the Repairing Standard to the extent put at issue within the application, as at the date of the Hearing. The focus of the committee's investigation related to the complaints as specified within paragraph 3 above.

Findings in Fact

8. The committee makes the following findings in fact:
- 8.1 The title to the subjects known as Flat 1/1, 98 Raeberry Street, Glasgow G20 6EG is held by the Landlords. Their interest is registered in the Land Register of Scotland under title number GLA209787 on 21 February 2012.
- 8.2 The Tenants have resided in the Property for some 50 years. The tenancy in place is a regulated tenancy in terms of the Rent (Scotland) Act 1984. No copy lease was available for production. The existence of a lease arrangement between the parties was not in dispute.
- 8.3 The Property which is the subject of this application is a two bed roomed first floor flat on a traditional stone built tenement.
- 8.4 In relation to the matters complained of in the application the committee's inspection revealed:-
- i. Wiring was evident to supply power to a hardwired smoke detector on the ceiling of the hallway. However the detection unit was not in situ.
 - ii. There were a number of battery operated smoke alarms throughout the Property.
 - iii. The internal timber frame of the window in the main bedroom in the Property is decayed, particularly the bottom rail. The external rail was similarly decayed and the external window sill significantly rotten and decomposed.
 - iv. A number of plaster cracks were seen throughout the Property to the walls, ceilings and cornices. Additional cracks were seen around the timber door frames. Such cracks have affected the internal decoration of the Property.
 - v. The door to the main bedroom does not close.
 - vi. Reference is made to the attached annex of photographs taken at the time of the committee's inspection.

Reasons for the Decision

9. The committee determined the application having regard to the bundle of papers (which had been made available in advance to parties), their inspection, together with the evidence of those in attendance at the Hearing.
10. The committee was only able to formally consider the Tenant's complaints which formed part of the intimated application. The committee was also under an obligation to consider the Tenant's complaints as at the time of the Hearing on 10 November 2015.
11. The committee was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the reference.
12. Mr Taylor, solicitor, representing the interests of the Landlords advised that instructions had already been received to install new fire detectors within the Property compliant with the Scottish Government guidelines currently in force. He also advised that the provision of a carbon monoxide detector to comply with new requirements coming into force with effect from 1 December 2015 would also be installed imminently.
13. Mr Taylor also indicated on behalf of the Landlords that necessary repair work to the bedroom window, found to be decayed, had also already been instructed. It had been hoped that such work would have been completed prior to the inspection and Hearing but this had not been possible due to ill health on the part of the Tenant.
14. Following enquiries at the inspection and discussions at the Hearing, the committee are of the opinion that the parties are agreed that the cracks within the Property complained of are as a direct consequence of conversion works to the commercial unit and flat situated below the Property at ground level. Such works had been undertaken in or about 2011.
15. Mr Ian Donald, Chartered Surveyor, who had been present at the inspection has been regularly involved over the years in tracking and monitoring a variety of investigations which have been undertaken on behalf of the parties. He was clear that there was no ongoing movement which would raise concerns. The tenant similarly had no concerns. It appeared to the committee that the cracks seen at the time of their inspection were not as a result of old settlement within the building though evidence of such was seen principally as a result of an inspection of the exterior of the building which disclosed the chimney stack having been re-built, remedial work undertaken to a former cracked lintel and evidence of other cracked stonework in the tenement.

16. Mr Taylor's primary submission was that the committee should not apply the repairing standard in this case as the tenancy is a regulated tenancy. Mr Taylor was asked to make specific submissions given the terms of Section 12 of the Act which makes it clear that the repairing standard applies to all tenancies other than those which are excepted as stated. He was not in a position to pursue such a line further. The committee was satisfied that the repairing standard found within Section 13 of the Act applies to the tenancy.
17. Mr Taylor sought an adjournment to take the Landlords further instructions in respect of their commitment to explore and resolve the cracks within the Property. Following this adjournment, Mr Taylor indicated that the Landlords were prepared to make good the cracks within the walls, ceilings and cornices. It was stated however that the Landlords were less committed to re-decorating the Property as a consequence of these works being carried out. Mr Taylor undertook to the committee that should additional concerns arise then a suitable specialist report would be instructed.
18. The committee formed the view that the Landlords are currently committed to remedying certain defects within the Property. The committee was less impressed that the Landlords had, over a lengthy period of time, failed to address the issue of the cracks within the Property and to remedy same. In order to underpin the undertakings given to the committee on behalf of the Landlords, a Repairing Standard Enforcement Order appeared appropriate and proportionate.
19. Mr Taylor did not address the issue of the ill-fitting bedroom door at the Hearing but the committee was satisfied that remedial work is required to be undertaken to ensure that it closes.

Decision

20. The Property does not meet the Repairing Standard. The Landlord has not complied with their duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is necessary. A Repairing Standard Enforcement Order is issued contemporaneously herewith.

Right of Appeal

21. 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 of the Act

22. Where such an appeal is made, the effect of the decision and of any order made, 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 date on which the appeal is abandoned or so determined.

R MILL

Signed
Chairman

Date 12 November 2015

PRHP REF: PRHP/RP/15/0191

98 Raeberry Street, Glasgow, G20 6EG

10th November 2015

Front elevation



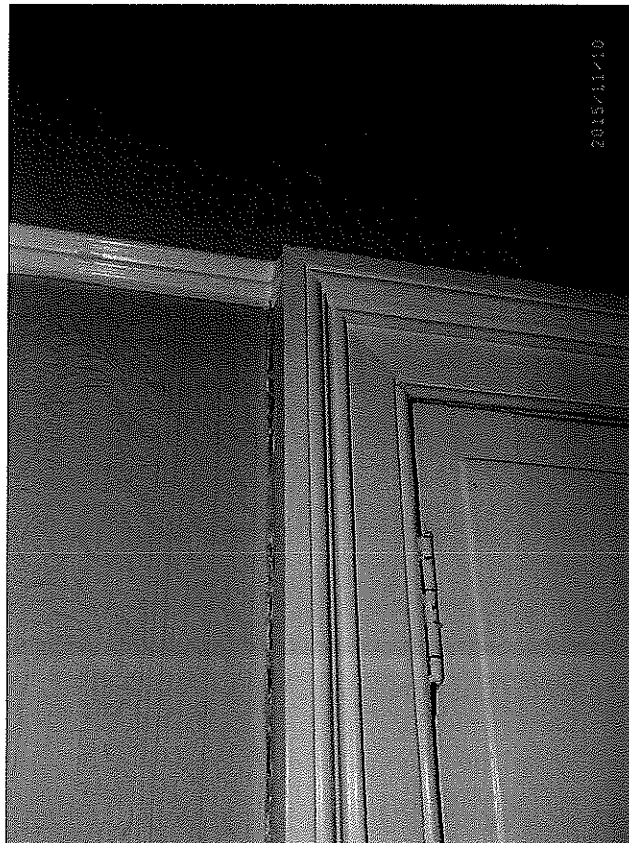
Uneven plasterwork at junction of partition wall and gable wall in Lounge



Crack in plasterwork in party wall between Lounge and Bedroom (mirrored adjacent)



Crack at side of cupboard door frame in Lounge (mirrored adjacent)



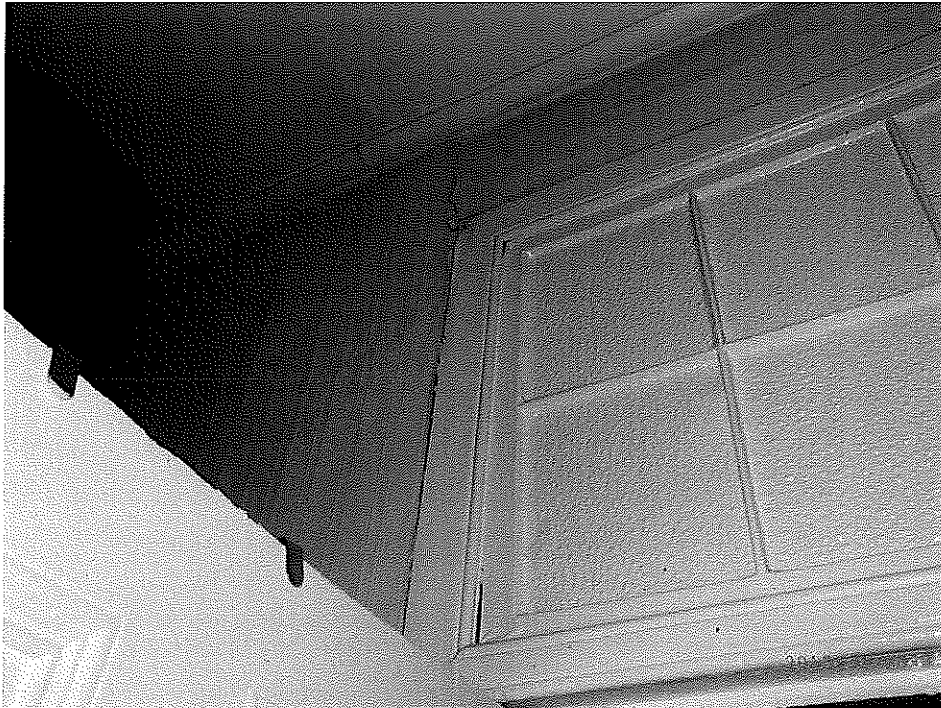
Crack in Lounge cupboard plasterwork



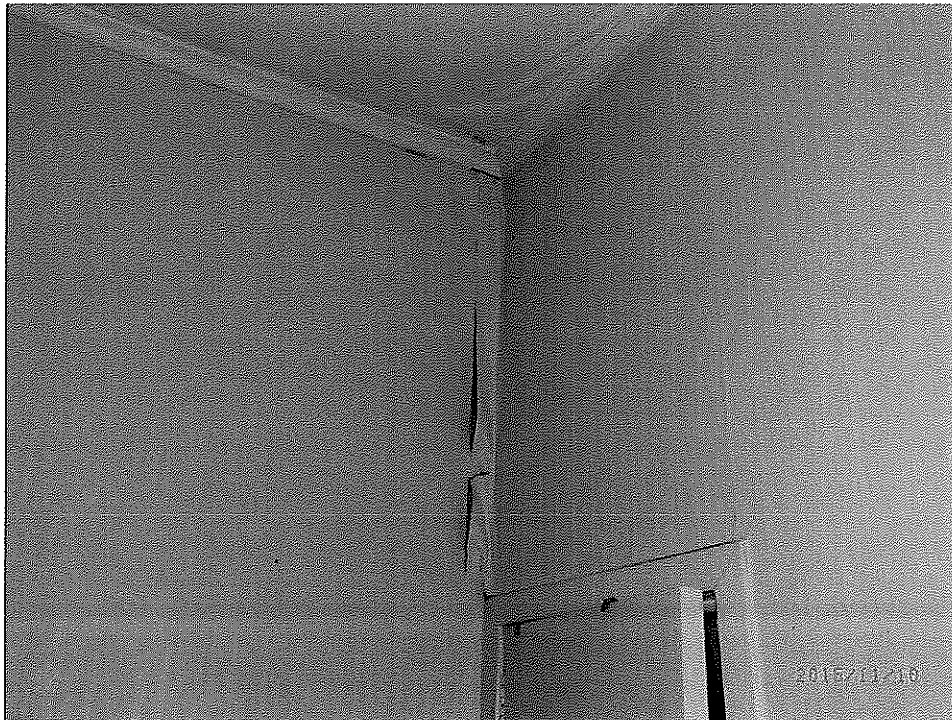
Drop in Bedroom door frame/cornice visible from Hall



Crack in plasterwork in Bedroom above door to Hall



Crack in plasterwork/damage to decoration at junction of party wall and gable in Bedroom



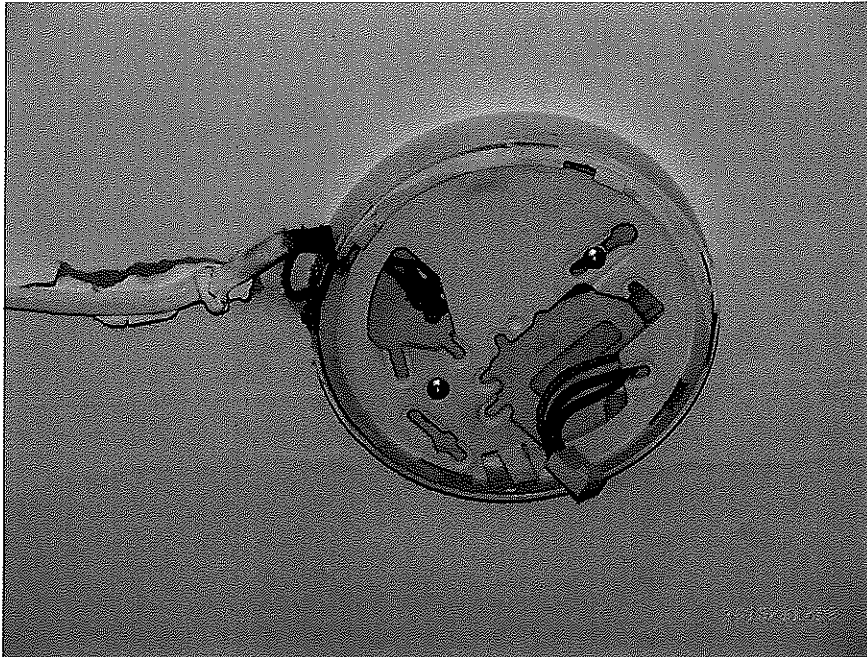
Crack in plasterwork above Kitchen door to Dining Room



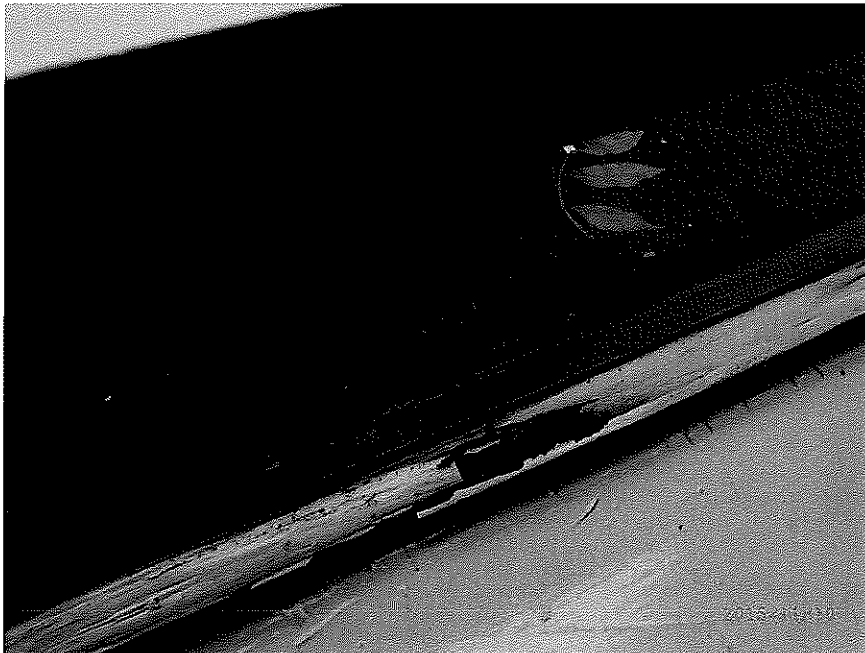
Crack in Kitchen party wall with Bathroom



Defective smoke detector in Hall



Rotted window frame/sill in Bedroom



David Godfrey MRICS

10th November 2015