



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0242

Re: Property at Flat 0/1, 84 Clifford Street, Glasgow G51 1QH ("the Property")

Title No: GLA70563

The Parties:-

PATRICK McMANUS and EMMA KANE, residing together at Flat 0/1, 84 Clifford Street, Glasgow G51 1QH ("the Tenants")

IRAM NOSHEEN ASHRAF, residing at 6 Matilda Road, Glasgow G41 5DY ("the Landlord")

Committee members:-

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

NOTICE TO IRAM NOSHEEN ASHRAF ("the Landlord")

Whereas in terms of their decision of even date, 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)(c): 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.

Section 13(1)(d): any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.

Section 13(1)(f): whether 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 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 Landlord:

1. A qualified gas engineer requires to be instructed to investigate all gas appliances within the Property and produce a Gas Safety Certificate. The gas fire in the living room, should it not be compliant, should be replaced or removed.

2. A qualified electrician requires to be instructed to provide an Electrical Installation Condition Report (EICR) on the condition of the electrics within the Property and any work required should be undertaken to ensure that there are no C1 or C2 recommendations.
3. A qualified plumber requires to be instructed to investigate the functionality of the hot and cold taps above the bath and these are to be repaired or replaced to ensure that they can both be turned on and off, and provide adequate water flow.
4. Smoke detectors are to be installed in the Property in accordance with the Scottish Government Statutory Guidance currently in force.
5. The old fridge freezer removed from the Property which was replaced and which is situated outside at the rear of the Property in the garden area should be removed.

The Private Rented Housing Committee requires that the works specified in this Order must be carried out and completed within 28 days 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/15/0242



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 0/1, 84 Clifford Street, Glasgow G51 1QH (“the Property”)

Title Number: GLA70563

The Parties:-

**PATRICK McMANUS and EMMA KANE, residing together at Flat 0/1,
84 Clifford Street, Glasgow G51 1QH (“the Tenants”)**

**IRAM NOSHEEN ASHRAF, residing at 6 Matilda Road, Glasgow G41 5DY (“the
Landlord”)**

Committee members:-

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

Decision

The committee, having made enquiries for the purposes of determining whether the Landlord has 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 Landlord has 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 20 August 2015, and received on 27 August 2015, the Tenants 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 Act in respect of the Property.
2. In the application the Tenants stated that the Landlord 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), (c), (d), (e) 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 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.
 - whether any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
 - whether any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
 - 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 Tenants were specifically the following:-
 - it was stated that the windows in the living room and bedroom do not open.
 - it was stated that the wastepipe from the toilet freezes outside in the winter causing waste to back up in the pipe and into the house.
 - it was stated that the outlet soil pipe of the toilet was leaking and that the adjacent floor area was rotten.
 - it was stated that the gas fire in the living room does not work and is condemned.

- it was stated that there is no Gas Safety Certificate or Electrical Installation Condition Report.
- it was stated that the bathroom taps leak and the sealant around the bath does not provide an adequate seal.
- it was stated that the laminate flooring in the bedroom and the living room was lifting up and causing a trip hazard.
- it was stated that the Property has a moth infestation.
- it was stated that there are no smoke or carbon monoxide detectors.

4. Notices of Referral were issued to parties on or about 5 October 2015.

Inspection

5. The committee inspected the Property on 10 November 2015 at 10.00 am. The Tenants invited the committee members into the Property and directed them around. The Landlord was not present but had instructed an agent, Mr Tahir Bashir of Messrs GPS Properties to represent him.

Hearing

6. Following the inspection of the Property the committee convened a Hearing at Wellington House, 134-136 Wellington Street, Glasgow G2 2XL. The Tenants appeared personally and provided evidence to support their application. The Landlord's agent, Mr Bashir, also attended and participated.

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 0/1, 84 Clifford Street, Glasgow G51 1QH is held by the Landlord. Their interest is registered in the Land Register of Scotland under title number GLA70563 on 17 January 2007.
- 8.2 The Property which is the subject of this application is a one bedroom ground floor flat within a traditional stone built tenement.

- 8.3 The parties entered into an arrangement for the Tenants to rent the Property at a rate of £350 per calendar month commencing 30 October 2014.
- 8.4 The Written Tenancy Agreement was initially in the sole name of the first applicant, namely Emma Kane. A subsequent Written Tenancy Agreement was also entered into between the second applicant and the Landlord.
- 8.5 In relation to the matters complained of in the Application the committee's inspection revealed:-
- i. All of the windows within the Property had been recently replaced. New window blinds have also been installed.
 - ii. The soil waste pipe in the bathroom which had been complained of had been repaired.
 - iii. Both the hot and cold taps above the bath were not functional. The cold tap produced a very poor flow despite the water pressure otherwise within the Property being sufficient. The hot tap was capable of being turned on but was not capable of being turned off easily.
 - iv. There was no evidence of any working smoke detector.
 - v. There were a number of matters which raised potential concerns in respect of the electrical safety of the Property. The light pendant within the living room was not secured properly and appeared to have been taped. A double socket within the bedroom of the Property was loose. The consumer unit/fuse box was also found to be dated.
 - vi. No Gas Safety Certificate was available for inspection. The gas boiler within the Property situated in the kitchen had been installed within the last year. The gas fire appliance within the living room was somewhat aged. There was no indication that this fire could be used safely. The fire was loose and the flue to the chimney was not sealed.
 - vii. The hob/oven and fridge freezer have been replaced in the Property over recent times. The old fridge freezer belonging to the tenancy which had been placed had been left in the rear garden area of the Property.
 - viii. A number of new areas of flooring were seen within the Property. This included laminate flooring in the bedroom. The fitting was poor causing an area in the centre of the room to be

raised. Laminate flooring previously laid in the living room which was similarly defective has been re-fitted satisfactorily.

- ix. There was no evidence of the presence of moths at the time of the committee's inspection.
- x. Reference is made to the attached annex of photographs which are referred to for their terms.

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. It was clear to the committee that the Landlord had been making efforts to meet the Tenant's concerns and to take steps to generally upgrade the Property. New windows had been installed throughout the Property together with the provision of new window blinds. A new oven and fridge freezer had also recently been provided. New flooring has been provided in the living room, bedroom and bathroom.
- 13. There was considerable acceptance on behalf of the Landlord by Mr Bashir at the Hearing that there remained outstanding issues which required to be undertaken in order to ensure that the Property meets the Repairing Standard.
- 14. The committee was advised that a Gas Safety Certificate had been instructed earlier in the year. No compliance was certified at that time due to an apparent problem with the work surface in the kitchen being too close to the cooker/oven. This was a matter which had been resolved but no fresh Gas Safety Certificate had been instructed. Mr Bashir was unable to advise as to the current compliance of the gas fire in the living room. He accepted that this was a matter which ought to be explored. The Tenants stated that they would be happy with the fire being removed and not replaced if it were identified that the fire raised safety concerns. Otherwise Mr Bashir undertook that investigations would be instructed in respect of the gas fire and that a fresh Gas Safety Certificate would be instructed.

15. Mr Bashir accepted that there potential issues over some electrical components within the Property and that this should be the subject of further exploration.
16. Mr Bashir accepted that the taps above the bath require to be repaired or replaced.
17. Mr Bashir accepted that a lack of smoke detectors was an urgent matter and specifically undertook that this would be resolved in early course, hopefully within 7 days and that the provision of smoke detectors would be in accordance with the Scottish Government Statutory Guidance in force.
18. Mr Bashir undertook that the old fridge freezer which had now been replaced which is outside the Property to the rear would be removed within 14 days.
19. Mr Bashir provided a number of further undertakings on behalf of the Landlord. It was undertaken that a carbon monoxide detector would be installed in the Property prior to 1 December 2015. This is when new Regulations in relation to the provision of carbon monoxide detectors within tenancies comes into force. He undertook that the defective laminate flooring within the bedroom of the Property would be investigated and repaired. He undertook that a mortice lock to the most external door of the Property would be provided. He undertook that the Tenants' continuing concerns over a moth infestation would be explored further and that a suitably qualified professional would be instructed to investigate and recommend further.
20. Having had regard to the repairing standard the committee was satisfied that the Landlord had failed to comply with their duty and that in a number of respects the Property does not meet the repairing standard. Despite clear undertakings being given on behalf of the Landlord the committee took the view that it was important to legally underpin such undertakings with the making of a Repairing Standard Enforcement Order so as to ensure that matters are expedited and there is no further delay. Some of the issues in respect of which undertakings have been given are direct safety issues.

Decision

21. 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

22. 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

23. 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 Date 13 November 2015
Chairman

PRHP REF: PRHP/RP/15/0242

84 Clifford Street, Glasgow, G51 1QH

10th November 2015

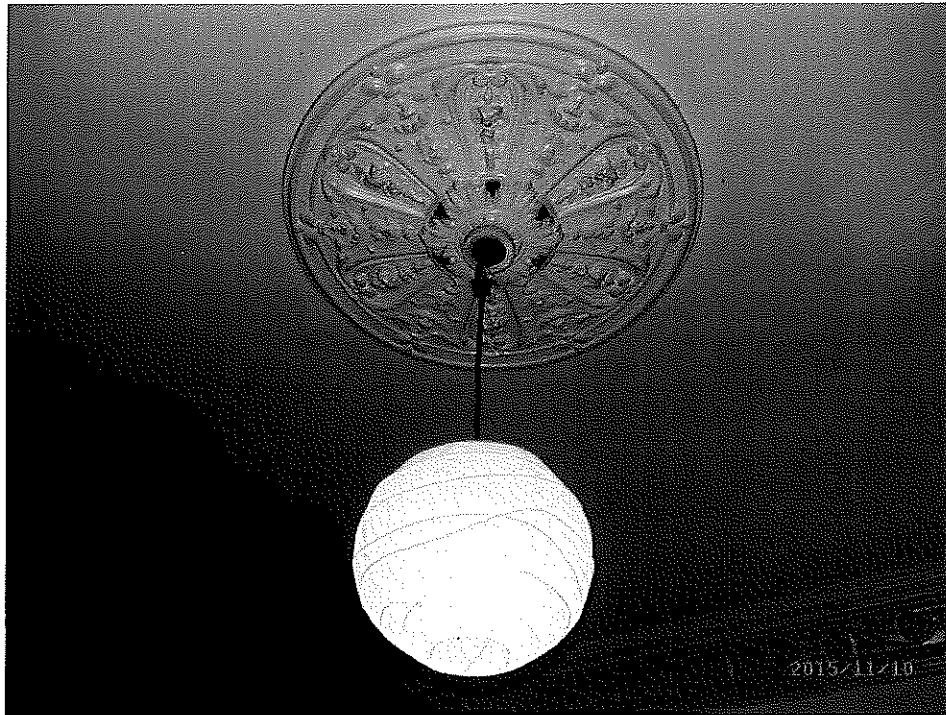
Front elevation



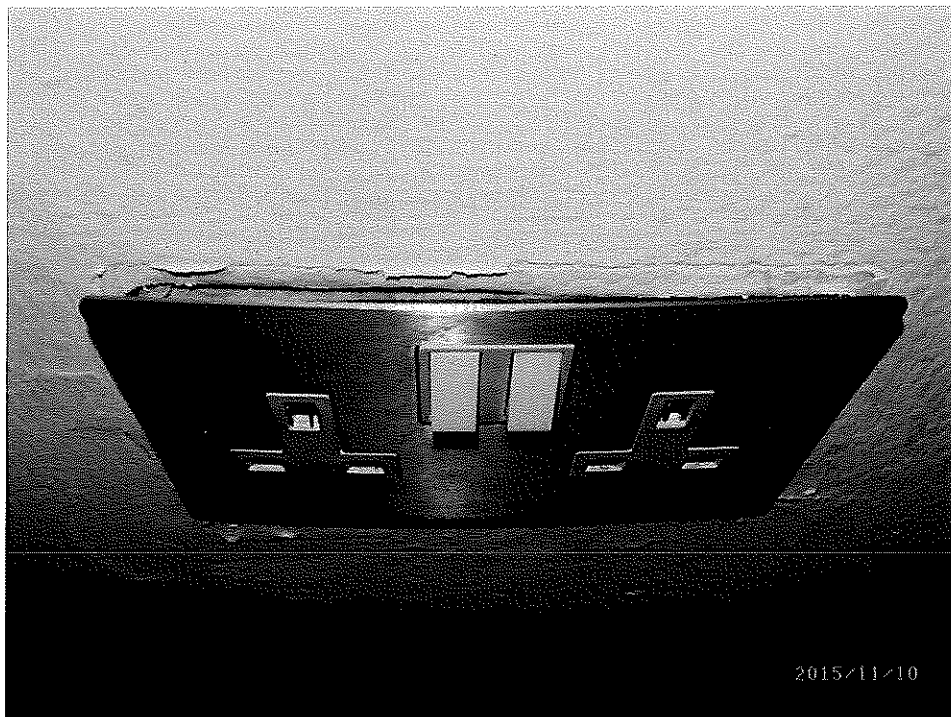
Lounge gas fire



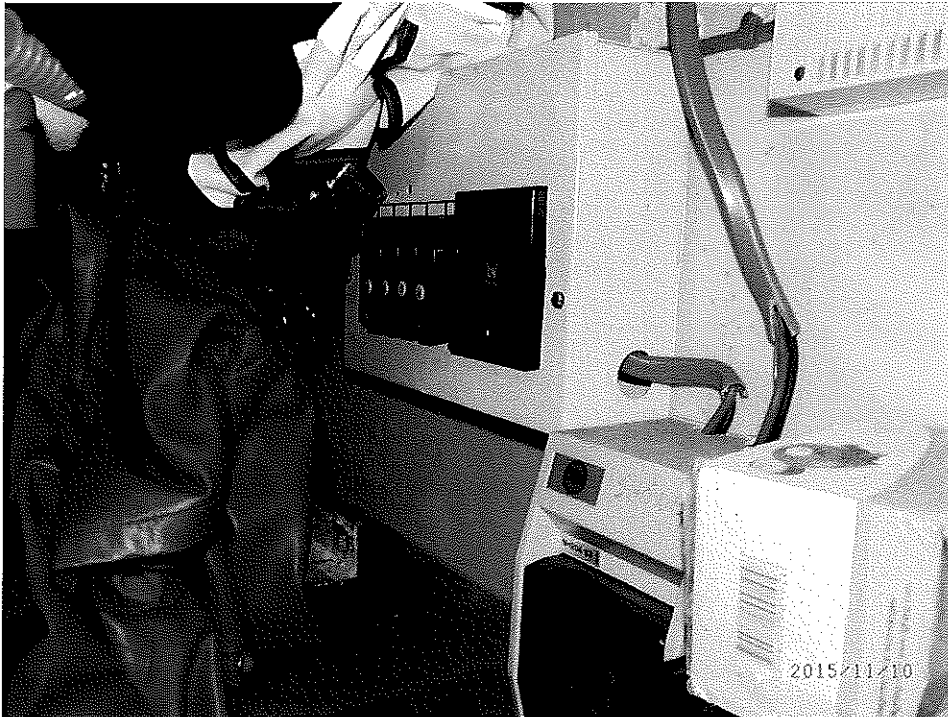
Lounge light pendant



Loose electrical socket in Bedroom



Fuse box/consumer unit



Bath taps



Fridge stored to rear of property



Lounge replacement window/blinds



Bedroom replacement window/blinds



Kitchen replacement window/blinds



Bathroom replacement window



Replacement laminate flooring in Lounge



Renewed waste pipe to W.C.



Inner vestibule door



David Godfrey MRICS

10th November 2015