



REPAIRING STANDARD ENFORCEMENT ORDER
Ordered by the Private Rented Housing Committee

RE: Property at 42B Court Street, Dundee DD3 7QQ more particularly described in Land Certificate Title number ANG47982 (hereinafter referred to as “the House”)

The Parties:

Andrew Burns, 42B Court Street, Dundee DD3 7QQ (hereinafter “the Tenant”)

Rafiq Suleman and Mrs Parveen Suleman, 5 Winchdon Close, Leicester LE5 0NE (hereinafter “the Landlord”)

PRHP REFERENCE PRHP/RP/15/0251

NOTICE TO RAFIQ SULEMAND AND PARVEEN SULEMAN

WHEREAS in terms of their decision dated 21 November 2015 the Committee determined that the Landlord has failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord has failed to ensure that the House meets the repairing standard in that:

*“(a) the house is wind and water tight and in all other respects reasonably fit for human habitation,
(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...
...(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.”*

The Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House 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 Committee requires the Landlord:

- 1 To produce an Electrical Installation Condition Report prepared by a qualified electrician who is or whose employer is registered with NICEIC, SELECT or NAPIT, which confirms that the electrical installations within the House are in safe, working order.

- 2 To repair the living room and kitchen walls so that they are free of holes, such repair to provide a reasonable standard of insulation in the repaired areas.

The Committee orders 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 the 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.

IN WITNESS WHEREOF these presents typewritten on this and the preceding page are signed by John Miller McHugh, Chairperson of the Private Rented Housing Committee at Edinburgh on the Twenty first day of November Two Thousand and Fifteen in the presence of the undernoted witness:

J McHugh

Chairperson

G McHugh

Witness

CILLIAN MCHUGH

Witness Address 65 HAYMARKET TERRACE
EDINBURGH

OCCUPATION: STATISTICIAN



DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE
UNDER SECTION 24(1)
OF THE HOUSING (SCOTLAND) ACT 2006**

In connection with

Property at 42B Court Street, Dundee DD3 7QQ (hereinafter referred to as “the House”)

Andrew Burns, 42B Court Street, Dundee DD3 7QQ (hereinafter referred to as “the Tenant”)

Rafiq Suleman and Mrs Parveen Suleman, 5 Winchdon Close, Leicester LE5 0NE (hereinafter referred to as “the Landlord”)

PRHP REFERENCE PRHP/RP/15/0251

DECISION

The Committee having made such enquiries as are fit for the purposes of determining whether the Landlord has complied with the duty imposed by section 14(1)(b) of the Housing Scotland Act 2006 (hereinafter “the Act”) in relation to the House, and taking account of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application dated 3 September 2015 (hereinafter referred to as “the Application”), the Tenant applied to the Private Rented Housing Panel (hereinafter “the PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and, in particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

*“(a) the house is wind and water tight and in all other respects reasonably fit for human habitation,
(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...
...(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.”*

The Tenant complained of a number of defects in the House as follows:

Windows

The Tenant reports the windows to be draughty, broken or screwed shut.

Fire Detection

The Tenant complains that the only provision for fire detection is a battery powered smoke detector in the hall.

Bathroom Tiles

Tiles are missing grout.

Holes in walls

There are holes in the kitchen and in the living room walls which have been papered over.

By letter of 8 October 2015, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

The Committee comprised the following members:

John McHugh, Chairperson
Geraldine Wooley, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

The Committee inspected the House on 13 November 2015. The Tenant was not present. The Landlord was represented by their letting agent, Rizvan Aboobaker. Following the inspection, the Committee held a hearing at the Kirkton Community Centre. Neither the Landlord nor the Tenant were in attendance or represented. The Landlord’s representative had advised that he would not be present at the hearing. The Committee considered the written evidence submitted by the parties.

Submissions at the Hearing

None.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14 (1)(b).

Findings in Fact

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

The Landlord and the Tenant entered into a Tenancy Agreement in respect of the House on 18 March 2015.

The Landlord was recorded on the Lease as Baker Bradley Property Ltd.

Rafiq Suleman and Mrs Parveen Suleman are the registered owners of the House.

The Tenant took possession of the House from 18 March 2015 and has remained in occupation since.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defects in the house which are now the subject of the Application via an email issued by Lindsay Watson of Dundee City Council on 31 March 2015 to the Landlord's agent.

The inspection on 13 November 2015 revealed:

The windows have been replaced with new double glazed units throughout.

In the hall and living room, there are newly installed mains powered smoke detectors. In the kitchen there is a newly installed heat detector.

In the bathroom, a new waterproof panel has been installed beneath the shower. The remaining tiles and grouting were in satisfactory condition.

A hole is present in the kitchen wall where an appliance seems to have been connected at some time previously.

A hole is present in the living room wall. Both holes have been papered and painted over but there appears to be nothing solid behind the wall paper. There is evidence of dampness at the hole in the kitchen, possibly resulting from pipe work relating to the previously present appliance.

Reasons for the Decision

Windows

The windows have been replaced with new double glazed units throughout. These appear to be satisfactory. We find there to be no breach of the repairing standard in this respect.

Fire Detection

In the hall and living room, there are newly installed mains powered smoke detectors. In the kitchen there is a newly installed heat detector. These appear to meet the Scottish Government Guidance on Satisfactory Provision for Detecting and Warning of Fires. No evidence of the carrying out of these works in accordance with electrical safety requirements was available at the inspection. The Committee requested sight of an Electrical Installation Condition Report for the House and the Landlord's agents indicated that one would be made available.

Bathroom Tiles

A new waterproof panel has been installed beneath the shower and this appears satisfactory. We find there to be no breach of the repairing standard in this respect.

Holes in walls

There are holes in the kitchen and in the living room walls which have been papered over. There is no evidence of any plaster or other substance beneath the wall paper. This compromises the insulation of the House and makes the entry of vermin more likely. We find the presence of these holes to constitute a breach of the repairing standard.

Repairing Standard Enforcement Order

Having decided to make a Repairing Standard Enforcement Order, the Committee considered the length of time which should be provided for compliance. The Committee elected to impose a period of 28 days having regard to the defects identified.

Observations

The light fitting in the living room had become detached from the ceiling. Although not included in the Application, this requires attention and the Landlord's agent indicated that immediate arrangements were being put in hand to deal with this matter.

Decision

The Committee, considering the terms of section 13(3) of the Act, determined that the Landlord had 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(2) of the Act.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the 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.

J McHugh

John McHugh
Chairperson

Date: 21 November 2015

Photographic evidence

42B Court St Dundee DD3 7QQ

Date of Inspection: 13/11/15



Work carried out prior to inspection:

1) New uPVC windows fitted throughout:



Front windows



Kitchen



Bedroom

2) Hard wired fire alarm in sitting room
(note damaged light fitting)



3) Heat alarm in kitchen



Outstanding issues:

- 1) Damaged plasterwork in sitting room – papered over:



- 2) Damaged plasterwork under kitchen work surface – papered over and damp to touch

