

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Case reference number : PRHP/RP/15/0254

Re:- Property at Flat O/1, 323 Archerhill Road, Glasgow, G13, 4PL ("the property")

Land Register Title number : GLA187461

The Parties:-

**Miss Melissa Duncan, residing at Flat O/1, 323 Archerhill Road, Glasgow, G13, 4PL
("the tenant")**

and

**Mr Safdar Ali, at Flat 3/1, 40 Coburg Street, Glasgow, G5 9JF
("the landlord")**

Notice to Mr Safdar Ali

Whereas in terms of the decision dated 11 December 2015 the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular the landlord had failed to ensure that:-

- (a) the house is wind and watertight and in all respects reasonably fit for human habitation;
- (b) 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;
- (c) 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
- (d) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed.

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

In particular the Private Rented Housing Committee requires the landlords to carry out the following work

- To produce to a Gas Safety Certificate under and in terms of the Gas Safety (Installation and Use) Regulations 1998 confirming that the property meets the requirements of those regulations.
- To instruct an appropriately qualified contractor to carry out a standard Electrical Installation Condition Report on the property and to carry out any works which are shown to be necessary in terms of said report to bring the electrical installations and wiring throughout the property into a proper state of repair and to proper working order.
- to instruct an appropriately qualified specialist to carry out an inspection of the timber throughout the property, to report on the extent of rot and timber decay and woodworm infestation throughout the property and, in particular, in the floor boards to the property and to carry out any works which are shown to be necessary in terms of said report to bring the timber in the property into a proper state of repair and to ensure rot, decay and woodworm are eradicated within the timbers.
- To replace the thermostatic radiator valves in all radiators throughout the property and to ensure that the thermostatic radiator valves are in a reasonable state of repair and in proper working order.
- To fill and repair the settlement cracks throughout the property and to redecorate thereafter.
- To replace the sealant around the bath to ensure that the area is watertight.
- To remove the carpets from the hall and front bedroom of the property and to replace with appropriate flooring which is not damp.
- To refit and replace if necessary the doors to the kitchen and bathroom of the property to ensure that they close fully and properly.

The Private Rented Housing Committee orders that the works specified in this order must be carried out no later than 31st January 2016.

A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the PRHP or the Committee which made the decision.

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

J Bauld

Signed.....

Date..... 11 December 2015

James Bauld, Chairperson

E Thomson

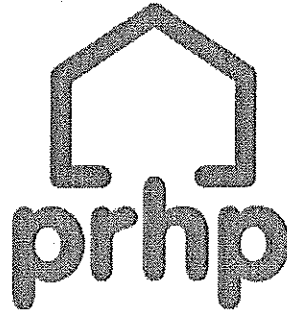
Signature of Witness.....

Date..... 11 December 2015

Name: EMMA THOMSON

Address: 7 West George Street, Glasgow, G2 1BA

Designation: TRAINEE SOLICITOR



Determination by Private Rented Housing Committee

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 24(1) of the Housing (Scotland) Act 2006

Case Reference Number: PRHP/RP/15/0254

Re:- Property at Flat O/1, 323 Archerhill Road, Glasgow, G13, 4PL ("**the property**")

Land Register title number : GLA187461

The Parties:-

Miss Melissa Duncan, residing at Flat O/1, 323 Archerhill Road, Glasgow, G13, 4PL ("**the tenant**")

And

Mr Safdar Ali, at Flat 3/1, 40 Coburg Street, Glasgow, G5 9JF ("**the landlord**")

The Committee comprised:-

Mr James Bauld - Chairperson

Mr Mike Link - Surveyor Member

Decision:-

The Committee unanimously decided that the landlord had failed to comply with the duties imposed by Section 14(1) (b) of the Housing (Scotland) Act 2006 ("the 2006 Act"). The Committee accordingly proceeded to make a Repairing Standard Enforcement Order ("RSEO") as required by Section 24 (2) of the 2006 Act.

Background:-

1. By application dated 9th September 2015, the tenant applied to the Private Rented Housing Panel ("PRHP") for a determination that the landlord had failed to comply with the duties imposed by Section 14(1) (b) of the 2006 Act.

2. In the application made by the tenant she stated that she considered that the landlord had failed to comply with his duty to ensure that the house met the repairing standard and that in particular the structure and exterior of the house including drains, gutters, and external pipes were not in a reasonable state of repair, the installations in the house for the supply of water, gas, electricity and heating were not in a reasonable state of repair and that the property suffered from suspected rising damp and lacked appropriate safety checks in respect of gas installations and electrical installations. She also complained that carpets and flooring required to be replaced. The tenant complained that there was woodworm infestation, cracking in the kitchen and bathroom ceilings, defective shower hose and pipes, defective thermostatic radiator valves and bath seals. She complained that the doors of the kitchen and bathroom were ill fitting
3. By Minute of decision dated 22nd September 2015, the President of the PRHP decided to refer the application to a Private Rented Housing Committee.
4. Subsequently the Committee served notice of referral under and in terms of the 2006 Act upon both the landlord and the tenant indicating that an inspection and hearing would take place on 13th November 2015. Intimation was given to the parties that the inspection would take place at 10 am and that a hearing would thereafter be held at 12 noon in Glasgow.
5. The Committee members attended at the property for the inspection on 13th November 2015. The tenant was present during the inspection. She was assisted during the inspection by her partner Mr Shehan Fernando. The landlord was also present during the inspection. Following the inspection of the property, the Committee held a hearing within Wellington House in Wellington Street, Glasgow. The tenant, her partner and the landlord were all present at the hearing.

The Inspection

5. During the inspection, the Committee members were able to examine all the areas of complaint raised by the tenant. With regard to the tenant's complaint regarding dampness in various areas, the surveyor member of the Committee used his protimeter to obtain readings. These readings were demonstrated to both the landlord and the tenant. In various places the readings showed the existence of dampness in walls, floor boards and carpets. The Committee examined the radiators within the property in connection with the complaint by the tenant that the thermostatic valves were not working. At the commencement of the inspection the central heating system was not switched on. The Committee members asked the tenant to switch the heating system on to enable the radiators to become warm. The radiators very quickly reached a hot temperature. At that point the Committee members turned the thermostatic valves down to minimum. At the end of the inspection, some thirty minutes later, the various radiators were still very hot and clearly the thermostatic valves had had no effect on the temperature in the individual radiators.
6. During the inspection, the Committee members also noted that the doors to the bathroom and kitchen did not close properly. The Committee noted that the lintels were not level. The Committee noted there were cracks in the wall in the kitchen and in the bathroom indicating settlement. During the inspection, the Committee members asked the tenant's partner to demonstrate their complaint that the shower mixer tap was not functioning properly. They had complained that they could only either obtain water from the mixer which was either very cold or too hot. During the demonstration this fault was not demonstrated. The Committee also noted the condition of the carpets and flooring throughout the property and also examined the fuse box within the cupboard to the property. A schedule of photographs is attached to this decision showing certain aspects of the faults alleged. In addition the committee members noted the lack of silicone sealant around the bath, the existence of decay and woodworm in the flooring and joists at the kitchen, and the existence of high damp readings on the carpets together with mould and probable condensation particularly in the bedroom. The committee were

also made aware of an allegation of a "live" electric wire, now covered over, in the living room in the main wall.

7. The inspection was concluded and the Committee members travelled to the venue for the hearing.

The Hearing

8. At the hearing, the Committee explored with the parties the various issues which had been raised by the tenant and which had been apparent during the inspection. In particular, the committee members questioned the landlord with regard to the various matters which had been raised during the inspection.
9. Initially the Committee asked the landlord with regard to the existence of a Gas Safety Certificate. The landlord was able to produce an email which was on his phone. This email appeared to show that there was a Gas Safety Certificate issued by a firm called Stewart Auld Plumbers. The relevant inspector had been R Murdoch. The serial number of the certificate appeared to be 45C1458368. No paper copy of the Gas Safety Certificate was available. The landlord indicated that he had not yet been sent the paper copy and was awaiting its arrival in the post.
10. The Committee then questioned the landlord with regard to the electrical installation within the property and asked whether he had ever obtained an Electrical Installation Condition Report. He indicated that an engineer had been sent out to the flat last week but had not been able to gain access because the tenant was not available. The tenant confirmed that she had been approached last week but had been unable to allow access as she had been given minimal notice of the arrival of the engineer. She confirmed she would be happy to allow access at an appropriate time.
11. The Committee then raised the question with regard to the thermostatic valves on the radiators. It was accepted that they were not working. The landlord agreed they required to be fixed.
12. The Committee then turned to the question of the flooring within the property and in particular to a significant problem which had been exhibited during the inspection. During the inspection the tenant had complained that the floorboard at the entrance to the kitchen appeared to be unsafe. The tenant's partner was able to uplift the linoleum floor covering to expose the floor boards. It was clear that the floor boards at the door of kitchen area were in a significant state of disrepair. They were significantly damp and in places had rotted completely. The Committee also noted that the rot appeared to be spreading to the joists underneath the floorboards. The landlord indicated that he had attended at the property about two months ago with a friend who had previously run a building company. He had taken this friend with him to enable the friend to show him the work which would be required. He was aware of the difficulties and problems with these floor boards and it was his intention to repair them. He had already purchased laminate flooring which he intended to use at the property. He accepted that he would require to repair the floor boards prior to laying the laminate flooring.
13. The Committee then raised the question with regard to the carpets, particularly in the hall and the front bedroom. The Committee had noted during their inspection that these carpets were damp. The landlord indicated his intention to remove these carpets and to replace the carpets with laminate flooring. The Committee also noted that in the front bedroom there was significant mould on the wall behind the bed. It was also noted that the carpeting in this area was significantly affected by mould and had almost perished.
14. The Committee then examined the allegations that the electrical wiring in the property was not safe. During the inspection the tenant's partner had allowed the Committee to

examine the fuse box within the property. At one point he had switched off the fuse box to enable pictures to be taken of the interior. The landlord confirmed that he was aware that an electrician would be required to carry out certain works to the fuse box.

15. The next matter raised by the Committee was the apparent settlement within the property which was apparent from the cracking which had appeared on the wall in the kitchen and along the junction between the walls and the ceilings in the kitchen and bathroom. The surveyor member reassured the tenant that the existence of the settlement is not uncommon and does not mean that the building is unsafe or about to collapse.
16. It was noted that both the doors to the bathroom and the kitchen did not close properly owing to the settlement movement which has resulted in the pass door lintels being off level. The doors require to be planed in order to allow them to fit and close properly within their frames.
17. The landlord then indicated that he had already purchased laminate flooring which was stored in the storage area in the block of flats. His intention was to lift all carpets, replace and repair floor boards and then put down laminate. His explanation was that if there was laminate flooring it would be easier to check whether there were water escapes rather than it just being soaked up by the carpet. The landlord wondered whether the necessary repairs to the property could be carried out while the tenant was still in the property and in particular while a young child was still living there.
18. The Committee then asked the tenant to address the Committee. The tenant's position was that she had made the complaints regarding the state of repair and that she wished the appropriate orders to be made requiring the landlord to carry out the necessary repairs. She did not accept the landlord's position that he would have carried out these repairs even if she had not raised the application to the Panel.
19. The Committee then explained to the parties the various powers which the Committee have. In particular, the Committee explained to the parties what would happen if a Repairing Standard Enforcement Order was made and the possible consequences should such an order not be completed.
20. The parties were then asked if they had any final comments which they wished to make but they were happy that these had been canvassed at the hearing.

Findings of Fact

21. Having considered all the evidence the Committee found the following facts to be established:-
 - (a) The subjects of let comprise a ground floor flat within a three storey tenement building. The tenement is approximately sixty years old. The walls are of brick construction, rendered externally and the roof is pitched and tiled. The accommodation comprises of a flat on the ground floor consisting of an entrance hall, living room, two bedrooms, kitchen and bathroom.
 - (b) The surveyor member of the Committee took meter readings in various places during the inspection which confirmed the existence of moisture and dampness within the walls in the kitchen, the walls in the hall, the walls in the front bedroom and the carpets in the hall and front bedroom.
 - (c) The flooring in the property at the door to the kitchen was suffering from significant disrepair, including dampness and rot. The Committee found that this dampness and rot is likely to be caused by the fact that there is no effective sealant around the bath which is situated on the wall that sits between the hall and the bathroom. The shower

unit is at the end of the bath and it is likely that water escaping from the shower is not contained within the bath area owing to the bath's defective sealant.

- (d) The carpets within the hall and the front bedroom were significantly affected by dampness.
- (e) The doors to the kitchen and bathroom do not close properly.
- (f) The thermostatic valves on the radiators in all rooms are not functioning properly.
- (g) The electrical wiring and metering in consumer units within the property appear to be dated. There was no evidence of any recent electrical testing to these units. No recent Electrical Installation Condition Report was available to the Committee.
- (h) There was no sealant round the bath in the bathroom.
- (i) There was significant cracking within the kitchen on the internal wall, and in both the kitchen and bathroom on the respective joins between the internal walls wall and the ceilings in these rooms of the property.

Reasons for Decision

- 22. The Committee considered the issues of disrepair set out in the application and noted at the inspection and hearing.
- 23. At the hearing the Committee posed questions to the landlord and the tenant with regard to all the complaints.
- 24. It seemed to be accepted by all parties that the property was suffering from significant disrepair including significant dampness. It was also accepted that the thermostatic valves in the radiators were not in a proper state of repair, that the carpets and floor coverings were affected by dampness and that other repairs were required to prevent further dampness being caused in respect of water egress from the shower and bath area into the wall and the floor boards at the junction of the hall, bathroom and kitchen.
- 25. The Committee took the view that they were required to make a Repairing Standard Enforcement Order in respect of all of these matters. The Committee noted that the landlord accepted that many of the tenant's complaints were correctly founded and that certain repair works were required to the property.
- 26. Accordingly the Committee took the view that the property did not meet the Repairing Standard in respect of the following matters:-
 - (a) Dampness within various rooms in the property.
 - (b) Rot to the floor boards within the area at the hall, kitchen and bathroom.
 - (c) The electrical installations and wiring within the property required to be inspected by a competent electrician.
 - (d) The doors to the kitchen and bathroom required to be either renewed or replaced to enable them to fit and close properly.
 - (e) Sealant required to be applied around the entire bath.
 - (f) The thermostatic radiator valves required to be replaced.
 - (g) Carpets and floor coverings required to be removed and replaced.
 - (h) cracking in the kitchen and hall

(i) The Gas Safety Certificate required in terms of the Gas Safety (Installation and Use) Regulations 1998 requires to be produced to the tenant and to the Committee.

27. The Committee accordingly determined to make an RSEO as required in terms of section 24(2) of the Act.
28. The Decision of the Committee was unanimous.

Rights of Appeal

29. A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.
30. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP of the Committee which made the decision.

Effects of Section 63

31. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.
32. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

J Bauld

Signed.....

James Bauld, Chairperson

Date..... 11 December 2015

E Thomson

Signature of Witness.....

Name: EMMA THOMSON

Date..... 11 December 2015

Address: 7 West George Street, Glasgow, G2 1BA

Designation: TRAINEE SOLICITOR