



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0268

Re : Property at 3 West Harwood Crofts, Harburn near West Calder EH55 8LT
("the Property")

Sasine Register Sheet Number: 235717

The Parties:-

GEORGE CHONG LEE LIM and KAREN DAWN MARGARET LIM, c/o Home Lettings Scotland, 4 Polton Road, Lasswade EH18 1AA ("the Landlords")

MRS JAY BONGIOVANNI, residing at 3 West Harwood Crofts, Harburn near West Calder EH55 8LT ("the Tenant")

NOTICE TO GEORGE CHONG LEE LIM and KAREN DAWN MARGARET LIM ("the Landlords")

Whereas in terms of their decision of even date, the Private Rented Housing Committee determined that the Landlords have 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 Landlords have failed to ensure that:-

- 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;
- 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.

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 Landlords:-

1. To instruct a full written report from a suitably qualified engineer on the condition of the oil fired boiler situated within the garage of the Property. The Report must be made available to the committee. Any

recommendations contained within the Report to ensure that the boiler is working safely and satisfactorily for the provision of both heating and hot water requires to be instructed and completed.

2. To instruct a full written Report from suitably qualified engineer on the condition of the whole hot water and heating system to include a full assessment of the underfloor heating system within the Property, the main control programmer situated in the kitchen and all the individual room thermostat controls. The Report must be made available to the committee. Any recommendations contained within the Report to ensure that the system is working satisfactorily for the provision of both heating and hot water requires to be instructed and completed.
3. To instruct an up-to-date Electrical Installation Condition Report (EICR). The Report must be made available to the committee. A written Report from the electrician upon the loose wiring contained around the consumer unit and the defective pendant light fitting in the utility room of the Property should be sought together with comments upon the issues identified by D Houston electrician and author of the report dated 16/11/15 instructed by the Tenant. Any recommended electrical work requires to be instructed and completed.
4. To instruct repair, adjustment or replacement of (a) the locking mechanism in the multipoint locking door exiting the Property from the utility room to ensure that the lock is capable of being used without difficulty; and (b) the sliding patio doors in the garage annex to ensure that the doors operate and can be locked securely.
5. To instruct a suitably qualified tradesman to repair or replace the defective flooring in the end bedroom of the lower ground annex of the property to eradicate any loose flooring and trip hazards.
6. To instruct a suitably qualified tradesman to survey and assess the external decorative wall around the front step area of the main entrance to the Property and to repair or replace as necessary.

The Private Rented Housing committee order that the works specified in this Order must be carried out and completed within the period of 6 weeks from the date of service of this Notice and evidenced to the committee. The committee expects item 3. above relative to the electrical system to be instructed **immediately**.

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 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 Fifteenth day of February Two Thousand and Sixteen before this witness:-

M Murray

witness

R Mill

chairman

MARGARET JOHNSTONE MURRAY name in full

21 STAFFORD STREET address

EDINBURGH

EN3 7BJ

LEGAL SECRETARY occupation

Ref PRHP/RP/15/0268



Private Rented Housing Committee

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

Re: 3 West Harwood Crofts, Harburn near West Calder EH55 8LT (“the Property”)

Sasine Register Sheet Number: 235717

The Parties:-

**MRS JAY BONGIOVANNI, residing at 3 West Harwood Crofts, Harburn near
West Calder EH55 8LT (“the Tenant”)**

**GEORGE CHONG LEE LIM and KAREN DAWN MARGARET LIM, c/o Home
Lettings Scotland, 4 Polton Road, Lasswade EH18 1AA (“the Landlords”)**

Committee members:-

Richard Mill (Chairman) and Ian Murning (Surveyor Member)

Decision

The committee, having made enquiries for the purposes of determining whether the Landlords have complied 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 their 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 6 October 2015 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords had failed to comply with their 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)(b), (c), (d) and (f) which are in the following terms:-
 - 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 Landlords under the tenancy 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. Notices of Referral were issued to parties on 8 January 2016.

Inspection

4. The committee inspected the Property on 12 February 2016 at 9.00 am. The Tenant's representative, Terry Martin, invited the committee members into the Property and directed them around. The Landlords had been invited to attend but did not.

Hearing

5. Following the inspection of the Property the committee convened a Hearing at Howden Park Centre, Howden, Livingston, West Lothian EH54 6AE. Mr Terry Martin the Tenant's representative appeared and gave evidence to support the Tenant's application. The Landlord was represented by Graeme Haig and Lianne Bootland of Rent Locally, the Landlord's Letting Agent.

Summary of the issues

6. 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 matters complained of by the Tenant were:-
 - A crumbling external wall at the entrance to the Property.

- Lack of keys for the five external doors to the Property.
- Leaking roof.
- Overgrown gutterings.
- A broken wardrobe door.
- Gas hob not igniting.
- Broken tumble dryer.
- Faulty electrics with the whole electrical system frequently tripping.
- Faulty heating system.
- An unspecified leak in the bathroom.

Written submissions on behalf of the Tenant were lodged shortly prior to the inspection and hearing. Some of the original matters raised, as specified above, were no longer relied upon as a consequence of work having been undertaken and action taken on behalf of the Landlord. The lack of keys, leaking roof, overgrown gutterings, broken wardrobe door, broken gas hob and tumble dryer and the unspecified leak of the bathroom were no longer live issues.

Findings in Fact

7. The committee makes the following findings in fact:
 - 7.1 The title to the subjects known as 3 West Harwood Crofts, Harburn near West Calder EH55 8LT is held by the Landlords. Their interest is registered in the Sasine Registers of Scotland on Sheet Number 235717, recorded 3 February 1995.
 - 7.2 The Property which is the subject of this application is a modern self build property of around 25 years of age within a rural area. Some parts of the building have been created by way of extension. The Property is serviced by an oil fired gas boiler for the purposes of hot water and heating. The heating system is by way of wet underfloor heating.
 - 7.3 The parties entered into a Short Assured Tenancy Agreement on 19 June 2014. The Tenant took up occupation of the Property on 30 June 2014.
 - 7.4 The Tenant resides with her three children and two grandchildren. Her younger grandson has special needs and requires significant care.

8. In relation to the matters complained of in the Application the committee's inspection revealed:-

- i. The underfloor heating in the Property was not working. In the circumstances it was not possible to identify whether or not the main programmer, which is situated in the kitchen of the Property, nor the individual room thermostats, were operative.
- ii. The majority of the electrics within the Property were working. Concerns however were noted due to the Tenant's representative confirming that there are ongoing problems with the electrics which are causing shocks and the system continuing to trip. Upon inspection of the consumer unit loose electrical wiring was observed. Otherwise it was noted that the pendant light in the utility room adjacent to the kitchen did not work.
- iii. The lock of the external multipoint locking door in the utility room was stiff and difficult to operate.
- iv. The right-hand sliding patio door (as one leaves the Property) from the annex to the garage was derailed and incapable of being locked securely.
- v. The ceiling of the dining requires redecoration following upon a former leak from the bathroom upstairs.
- vi. The wooden flooring in the end bedroom of the lower ground annex of the Property was loose in places creating an immediate trip hazard.
- vii. The decorative wall which surrounds the front step area to the main entrance of the Property is loose and insecure at places.
- viii. The lengthy driveway to the Property, which is water bound, has a number of dipped areas which are collecting water and which make passing the access road difficult.
- ix. Reference is made to the attached Schedule of Photographs which were taken during the 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 12 February 2016.

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. Full and detailed written representations were received on behalf of the Landlords by their letting agent. Each and every component of the Tenant's claim was the subject of lengthy comment. Additionally, a full communication log between the letting agency and the Tenant was produced. A schedule of detailed works carried out prior to the Tenant taking up occupation was produced. A Gas Safety Certificate dated 15 January 2016 in respect of the gas hob was produced. This also disclosed that smoke and carbon monoxide detectors had been fitted as at that date. The committee were impressed by the efforts made by the Letting Agents to address the issues which fell to be determined before the committee.
13. The submissions principally made on behalf of the Landlord was to the effect that the Tenant was making unfounded complaints. It was suggested that reports made by the Tenant had often lacked detail. Some of the difficulties which had arisen were due to the Tenant's own acts and omissions. Reference was also made to the condition of the Property as a consequence of the Tenant's own behaviour which has included the breeding of cats and dogs. The representatives of the Letting Agent complained that the Tenant had been obstructive about complying with contractors instructed to inspect and carry out work. It was also suggested that the Tenant had failed to adequately communicate.
14. Notwithstanding the above principal submissions made on behalf of the Landlord it was, in the course of the Hearing, conceded that there have been ongoing problems for some time with the oil fired boiler and underfloor heating system. It was accepted on behalf of the Landlord that an investigation by suitable engineers should be carried out. It was similarly accepted that an Electrical Installation Condition Report (EICR) should be instructed for clarification of the condition of the electrical system. Despite the raising of concerns in relation to same by the Tenant, no EICR has been instructed to date. This is surprising. The committee considered that the condition of the boiler and lack of heating together with the substandard electrics within the Property, were the main issues and that the electrics are of an immediate health and safety concern.
15. Mr Martin made reference at the hearing to an electrical report which had been commissioned by the Tenant personally which confirms there are faults with the electrical system. He was unable to produce a copy. Later in the day the Tenant emailed a copy of the report. The qualifications of the author were unclear but reference is made to the fact that he is a fully qualified Approved Electrician who has been in the trade for 44 years. A number of faults are detailed and described as "completely unacceptable" and "serious". The EICR ordered by the committee should address the issues within this report.

16. It was accepted on behalf of the Landlord that some cosmetic redecoration requires to take place downstairs in the dining room as a consequence of the former leak in the upstairs bathroom which has now been remedied. There is no urgency to this and works will be carried out at the time of routine maintenance intervals. It was similarly accepted that the driveway of the Property required regular maintenance and would be undertaken in due course. The Tenant's representative, Mr Martin, accepted that there was no urgency to these matters. The committee did not conclude that these issues breach the Repairing Standard but such maintenance should be borne in mind by both the Landlord and the Letting Agent.
17. The external doors, being the single door with the stiff locking mechanism exiting from the utility room and the currently unusable patio doors in the garage annex are accepted by the Landlord's agent as requiring attention.
18. The external decorative wall around the front step area at the main entrance of the Property is in a state of disrepair and requires attention. It appears on observation by the committee that is currently unsafe and may pose an immediate health and safety concern. Another immediate safety concern is the loose flooring in the end bedroom in the annex.
19. The committee was satisfied that there was a breach of Sections 13(1)(b), (c) and (d) of the Act. The state of disrepair of the external wall is a breach of Section 13(1)(b). The defective heating system and electrical system is a breach of Section 13(1)(c). It was noted that portable electrical heaters had been provided by the Landlord as an alternative to the heating system but this does not excuse the Landlord from meeting their obligations. These are not an effective alternative. The defective external doors and bedroom flooring in the lower ground annex is a breach of Section 13(1)(d). Though 6 weeks is being allowed to the Landlords for full compliance with the Repairing Standard Enforcement Order (RSEO) the committee expects the EICR component to be instructed immediately upon receipt of this Decision and corresponding RSEO due to the urgency of the concerns over the electrical system.
20. The committee notes that some of the difficulties in communication on the part of the Tenant may be due to her life circumstances which seem to the committee to be stressful and ongoing problems with both telephone and broadband coverage in the rural setting of the Property. The committee following concluding that the house does not meet the Repairing Standard and as a consequence determining that a Repairing Standard Enforcement Order is necessary must make it clear to the Tenant that she must take all and every steps to ensure that she (or her representative, Mr Martin) is readily contactable by the Letting Agent and all and any contractors instructed by them to ensure that the Repairing Standard Enforcement Order made by the committee can be complied with.

Decision

21. The Property does not meet the Repairing Standard. The Landlords have 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.

M Murray

witness

R Mill

chairman

Margaret Johnstone Murray
21 Stafford Street
Edinburgh
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Date: 15 February 2016

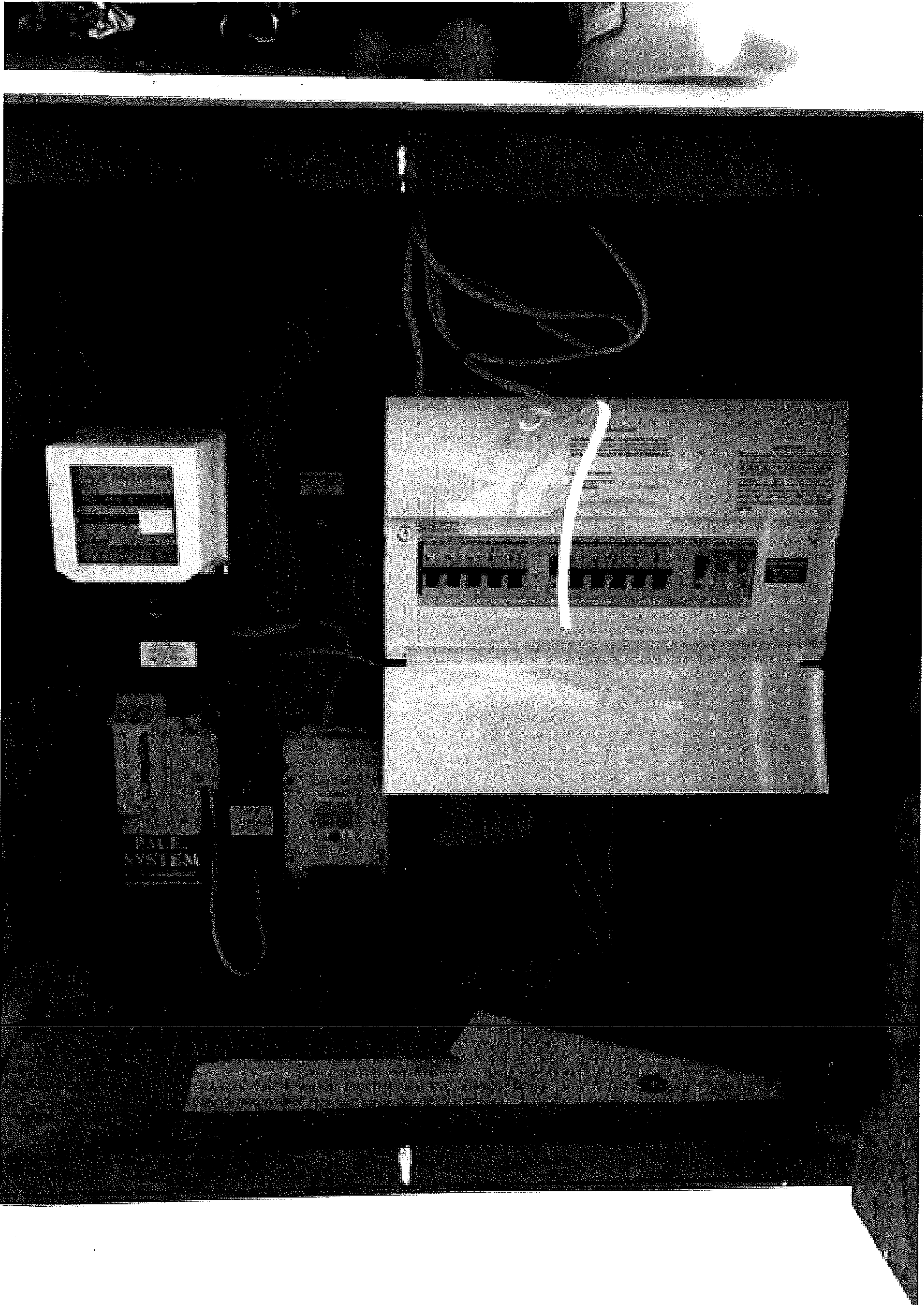
Legal Secretary



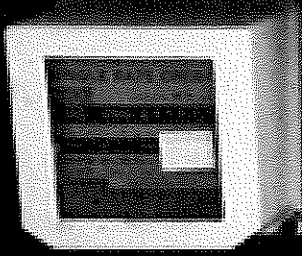








Control panel with multiple switches and indicators. A white label is attached to the top.



FALL SYSTEM

