



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/R/15/0299

Re: Property at 35 Southfield Farm Grove, Edinburgh EH15 1SR ("the Property")

Title No: MID42780

The Parties:-

ELIZABETH RAYMONDE MANSHOURI and MEHDI MANSHOURI, Spouses, residing at 9 Duddingston Crescent, Edinburgh EH15 3AS ("the Landlords")

MR CHRISTOPHER UMWENI, residing at 35 Southfield Farm Grove, Edinburgh EH15 1SR ("the Tenant")

NOTICE TO ELIZABETH RAYMONDE MANSHOURI and MEHDI MANSHOURI ("the Landlords")

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

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.

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 to:

1. Produce an up-to-date Gas Safety Certificate in respect of all gas appliances within the Property.
2. Produce a report on the current condition and operation of the boiler and heating system within the Property from a registered gas engineer. The report should address the ability of the boiler to heat hot water alone in the absence of the heating system being operative and address the efficiency of the radiators. Any work to improve the effectiveness of the radiators, including bleeding air from them should be undertaken.
3. Produce an Electrical Installation Condition Report (EICR) in respect of the

whole Property, to include a Report on all of the electrical sockets and lighting.

4. Replace the fixed double glazed unit of the front bedroom of the Property.
5. To instruct a qualified plumber to:
 - i. investigate the leak from the bathroom to the kitchen and to take all necessary steps to repair or replace necessary components.
 - ii. repair or replace the cold taps in the bathroom, both at the basin and bath.
 - iii. replace the seal around the bath to the tiling.
6. Re-plaster and re-decorate the kitchen ceiling currently damaged as a consequence of the leak from the bathroom upstairs.

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 Twenty-eighth day of April Two Thousand and Sixteen before this witness:-

M Murray

witness

Margaret Johnstone Murray
21 Stafford Street
Edinburgh
EH3 7BJ

Legal Secretary

R Mill

Chairman
28 April 2016

Ref PRHP/RP/15/0299



Private Rented Housing Committee

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

Re: 35 Southfield Farm Grove, Edinburgh EH15 1SR (“the Property”)

Title Number: MID42780

The Parties:-

**MR CHRISTOPHER UMWENI, residing at 35 Southfield Farm Grove,
Edinburgh EH15 1SR (“the Tenant”)**

**ELIZABETH RAYMONDE MANSHOURI and MEHDI MANSHOURI, Spouses,
residing at 9 Duddingston Crescent, Edinburgh EH15 3AS (“the Landlords”)**

Committee members:-

Richard Mill (Chairman) and Susan Napier (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 had 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 received on 10 November 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)(a), (b), (c) and (d) 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.
3. Notices of Referral were issued to parties on 15 January 2016.

Inspection

4. The committee inspected the Property on 18 April 2016 at 10.00 am. The Tenant invited the committee members into the Property and directed them around. Also present within the Property was the Tenant's partner and brother. The Landlords also attended personally at the inspection.

Hearing

5. The committee convened a Hearing following the inspection at George House, George Street, Edinburgh. The Tenant appeared personally and was accompanied by his partner. He provided evidence in support of his Application. The Landlords attended personally at the Hearing and contributed their views on the issues raised within the Application.

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.
7. The matters complained of by the Tenant in the application were:-
 - A persistent water leak into the downstairs kitchen from the bathroom above.
 - Dampness in the bathroom.
 - Windows draughty and requiring resealed.
 - Defective taps in the bathroom.
 - Complaints about the heating.

Findings in Fact

8. The committee makes the following findings in fact:
 - 8.1 The title to the subjects known as 35 Southfield Farm Grove, Edinburgh EH15 1SR is held by the Landlords. Their interest is registered in the Land Register of Scotland under Title Number MID42780 on 14 August 2007.
 - 8.2 The Property which is the subject of this application is a modern style semidetached modern style villa. It is comprised of a living room, kitchen, two bedrooms, bathroom and hallway/stairway.
 - 8.3 The Tenant entered into a Short Assured Tenancy in respect of the Property with an entry date of 23 June 2013. The tenancy has continued since.
9. In relation to the matters complained of in the Application the committee's inspection revealed:-
 - i. There is evidence of a serious and persistent leak from the upstairs bathroom into the kitchen downstairs. This has caused the kitchen ceiling plaster to become unstable. The ceiling is damp. The leak is active. Water was noted to penetrate the kitchen from the bathroom upstairs at the time of the committee's inspection following the shower being turned on to demonstrate the leak.

- ii. The cold tap at the wash hand basin within the bathroom does not work. The cold tap at the bath of the bathroom is loose and does not operate properly.
- iii. The seal between the bath and the tiling in the bathroom is aged and defective.
- iv. The gas central heating boiler did not appear to provide the facility for heating hot water separately from the requirement to switch the heating on.
- v. There was evidence of air within the gas central heating system, particularly noted in the bathroom radiator. This is impairing the efficiency of the heating in the Property.
- vi. There were light fixtures which were inoperative (specifically the kitchen, upstairs hallway and bathroom).
- vii. There is ample ventilation in the downstairs of the Property. Although the sliding patio door system in the living room is of some age and does not comprise trickle vents there is an external air vent within the living room.
- viii. There is adequate ventilation within the upstairs of the Property. The bedroom windows are of a more modern type which contain trickle vents.
- ix. There is one glazed unit which forms part of the front bedroom window (the fixed central pane) in which it was noted that the seals are defective causing water retention of condensation between the panes of glass which have misted the window.
- x. There is one battery operated smoke alarm only in the Property which is situated in the downstairs hallway behind the front door close to the wall.
- xi. There is no carbon monoxide detector.
- xii. Reference is made to the attached Schedule of Photographs produced in the Annex.

Reasons for the Decision

10. 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.

11. 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 18 April 2016.
12. 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.
13. The committee has based their decision primarily upon the matters revealed at the committee's inspection which are referred to within paragraph 9 above.
14. At the hearing the Landlords produced a historical Gas Safety Certificate. This was dated 9 February 2015. This is over one year old. The Landlords also advised that they have had no recent Electrical Installation Condition Report (EICR) prepared.
15. The committee referred to the matters revealed at the time of their inspection and invited parties to make additional submissions or comments thereon.
16. The Landlords have complained about the behaviours and actions of the Tenant and those others whom have been residing with him. It was noted that recovery of possession proceedings have been initiated at Edinburgh Sheriff Court in order that the Landlords can seek possession of the Property. Parties were reminded that the committee's jurisdiction related to whether or not the tenancy meets the repairing standard or not.
17. The fixed pane of glass within the front bedroom window unit is clearly defective. This is not the subject of dispute. This glazed unit requires to be replaced. The current condition of the window is a breach of Section 13(1)(a) of the Act.
18. Despite representations made by the Landlords to the effect that the leak from the bathroom to the kitchen may not be active and is arising only as a consequence of the Tenant's actions, the committee were satisfied beyond any doubt that the leak is active and remedial steps require to be undertaken as a matter of urgency to prohibit further water damage within the Property. The ancillary problems with the taps in the bathroom and the seal around the bath are again beyond dispute.
19. It was apparent to the committee at the time of their inspection that certain lights within the Property were not working. Additionally, the Tenant complained of a double socket in both the kitchen and living room which were inoperative.

20. The gas boiler has not been the subject of a gas safety check for more than 12 months. There is question mark as to whether or not the boiler can be used to heat hot water alone in the absence of the heating system being used. The central heating system is not currently efficient due to air within the system.
21. The plumbing, heating and electrical problems identified are a breach of Section 13(1)(c) of the Act.
22. It was noted that the ceiling of the bathroom was mouldy. The committee did not attribute this to a lack of ventilation. There is adequate ventilation in the bathroom serviced by an operative window. The committee concluded that the mould growth is a direct consequence of the window not being utilised as required. It was also identified that the wooden floor timbers adjacent to the bath, at the shower end, were damp and contained high levels of moisture. The committee concluded however that subject to the leak in the bathroom being traced and remedied that the area will dry out and should not require further remedial work.
23. Though not comprising part of the Tenant's formal application, the committee were concerned to note that there was only one battery operated smoke alarm situated in the downstairs hallway. It was unclear whether or not this was operative. In any event, the provision of one such smoke alarm in the area in which it is situated would not meet the current recommended guidelines issued by the Scottish Government. It was additionally noted that the Property does not benefit from a carbon monoxide detector. The Landlords stated at the Hearing that they were unaware that this is now a requirement which requires to be fulfilled no later than 1 December 2016.
24. The Repairing Standard Enforcement Order contains the minimum work required in order that the Property meet the repairing standard. Additionally, the Landlords are encouraged to familiarise themselves with all duties and obligations which are incumbent upon them as landlords and in particular to investigate and address the provision of smoke alarms and the provision of a carbon monoxide alarm without delay.

Decision

25. 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

26. 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

27. 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

Margaret Johnstone Murray
21 Stafford Street
Edinburgh
EH3 7BJ

Legal Secretary

R Mill

chairman

Date: 28 April 2016