



Repairing Standard Enforcement Order

Repairing Standard Enforcement Order

Order by the Private Rented Housing Committee

Case Reference Number: PRHP/RP/15/0340

Re : 45B Culloden Road, Arbroath, DD11 1LH

Title Number: ANG98827

("the property")

The Parties:-

Linda Brennan, formerly residing at 45b Culloden Road, Arbroath, DD11 1LH ("the former Tenant")

and

Stobsmuir Enterprises Limited, 69 Victoria Street, Dundee, DD4 6EA ("the Landlord(s)")

The Committee:- Mrs Ruth O'Hare (Chairperson); David Godfrey (Surveyor member)

NOTICE TO: Stobsmuir Enterprises Limited (the Landlord)

Whereas in terms of its decision dated 19th April 2016, the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed on it by Section 14(1)(b) of the Act, and in particular that the landlord has failed to ensure that the house meets the repairing standard in that:

- the property is not wind and watertight and in all other respects reasonably fit for human habitation.
- the property does not have 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 landlords 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:

1. Investigate and repair the source(s) of water penetration to the property and render the property wind and watertight.
2. Carry out such works as are necessary to repair the ceilings in the bedroom and bathroom.
3. Install smoke/heat detectors in the Property in accordance with the Scottish Government Statutory Guidance currently in force.

4. Carry out all works required to make good decoration in the property following the above works.

The Private Rented Housing Committee further requires that the works be carried out within a period of three months from the date of this order.

A Landlord or a Tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within twenty one 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.

IN WITNESS WHEREOF these presents printed on this and the preceding page are subscribed by Ruth O'Hare, Chairperson at Aberdeen on the Nineteen of April Two Thousand and Sixteen in the presence of the undernoted witness

R. O'HARE

Signed

Ruth O'Hare
Chairperson

N. WARD

Signed

Witness – Nicole Ward

Occupation – Paralegal

Address: c/o Aberdeen City Council, Marischal College, Broad Street, Aberdeen



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

prhp Ref: PRHP/RP/15/0340

Re : Property at 45b Culloden Road, Arbroath, DD11 1LH (“the Property”)

The Parties:-

Linda Brennan, formerly residing at 45b Culloden Road, Arbroath, DD11 1LH (“the former Tenant”)

and

Stobsmuir Enterprises Limited, 69 Victoria Street, Dundee, DD4 6EA (“the Landlord(s)”)

The Committee comprised:-

Mrs Ruth O’Hare	-	Chairperson
Mr David Godfrey	-	Surveyor member

Decision

The Committee unanimously determined that the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“the Act”) The Committee accordingly made a Repairing Standard Enforcement Order (“RSEO”) as required by Section 24(2) of the 2006 Act.

Background

1. By application received on 11 December 2015 the Applicant 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 Housing (Scotland) Act 2006 (“the Act”).
2. The application stated that the Applicant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) the house is wind and watertight and in all other respects reasonably fit for human habitation; and
 - (b) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. By letter dated 22 February 2016 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Applicants.
5. Following service of the Notice of Referral the former Tenant made written representations to the Committee.

6. On 1 April 2016 the Landlord contacted the Committee to request the inspection and hearing be deferred due to his ill health. The Landlord further advised that he had no one available to represent him and stated that the former Tenant had left the property. The Committee was unable to confirm the position with the Tenant. The Committee therefore declined to agree to a deferral due to the nature of the disrepair alleged by the former Tenant and noted that the Landlord was represented by an agent who could attend the inspection and hearing on his behalf if required.
7. The Private Rented Housing Committee attended the Property on 5th April 2016. The former Tenant was present and allowed access to the Property. Prior to the inspection the former Tenant advised the Committee that she had terminated her interest in the tenancy on 9 March 2016. Despite this the Committee decided to continue with the application in view of the fact that the disrepair alleged by the former tenant was of a significant and serious nature and it was alleged that the property was not watertight.
8. The Private Rented Housing Committee proceeded to inspect the Property on the morning of 5th April 2016. The former Tenant was personally present. The Landlord was not present nor represented.

The Inspection

9. During the inspection the Committee members examined the areas of complaint raised by the former Tenant. Her complaint was that the ceilings had water leaking through them from the flat above and the property was therefore not wind and watertight. Further there were no working smoke alarms in the property.
10. The Committee members examined the bedroom and noted that there had been water ingress from the flat above which had caused the ceiling to partially collapse. It was noted that there was condensation in the room as a result of the damp conditions caused by the water ingress. The Committee also examined the bathroom where damage was also noted to the ceiling as a result of water ingress. The Committee then viewed the smoke alarm in the hallway of the property which was not in working order. The former Tenant advised that the Landlord had offered to fix the alarm but had failed to do so. Photographs were taken by the surveyor member and a schedule of photographs is attached to this decision.
11. The inspection was concluded and the Committee members travelled to the venue for the hearing.

The Hearing

12. The hearing took place in Arbroath Library, Hill Terrace, Arbroath. Neither the Landlord nor the former Tenant were present or represented.

Findings of fact

13. Having considered all the evidence the Committee found the following facts to be established:-
 - The tenancy is a short assured tenancy between the Landlord and the former Tenant which commenced on 17 April 2009. The tenancy has now been lawfully terminated and the former Tenant vacated on 9 March 2016.
 - The Property consists of a first floor flatted dwellinghouse within a three storey end terrace block. The accommodation comprises an entrance hall, bedroom, bathroom, lounge and kitchen.
 - The Property was inspected on the morning of 5 April 2016 on a rainy day.
 - There is water ingress to the bedroom, and bathroom which has caused damage to the ceilings in the Property. There is condensation in the bedroom as a result of the damp conditions caused by the water ingress.

- The Property is not wind and watertight.
- There is a battery powered smoke alarm fixed to the ceiling in the hallway of the Property. The alarm is not presently in proper working order.

Reasons for the decision

14. The Committee determined the application having regard to the terms of the application, the written representations and their inspection.
15. 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 application. The Committee had taken into account the Landlord's request to defer the inspection and hearing and had chosen to proceed for the reasons stated herein, namely the serious nature of the disrepair complained of.
16. It was apparent to the Committee during their inspection that the Property was not wind and watertight. The ceiling in the bedroom had partially collapsed due to water ingress from the flat above and there was damage to the ceiling in the bathroom . The Committee also noted that there was no working smoke alarm within the property and the Property did not have satisfactory provision for detecting fire. The Committee was therefore satisfied that there was a clear breach of the Repairing Standard.
17. The Act states that where a Committee decide that a landlord has failed to comply with their duty to ensure a property meets the Repairing Standard, the Committee "must by order require the landlord to carry out such work".
18. The Committee accordingly determined to make a Repairing Standard Enforcement Order as required in terms of section 24(2) of the Act and the decision of the Committee was unanimous.

Decision

19. In respect of section 13(1)(a) of the Act the Committee determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act as the Property was not wind and watertight and in all other respects reasonably fit for human habitation.
20. In respect of section 13(1)(f) of the Act the Committee determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act as the Property did not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
21. The decision of the Committee was unanimous.

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. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the panel or the committee which made the decision.

Effect of section 63

23. 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.

R. O'HARE

Signe

..... Date 19 April 2016

Ruth O'Hare
Chairperson

PRHP REF: PRHP/RP/15/0340

45B Culloden Road, Arbroath, DD11 1LH

5th April 2016

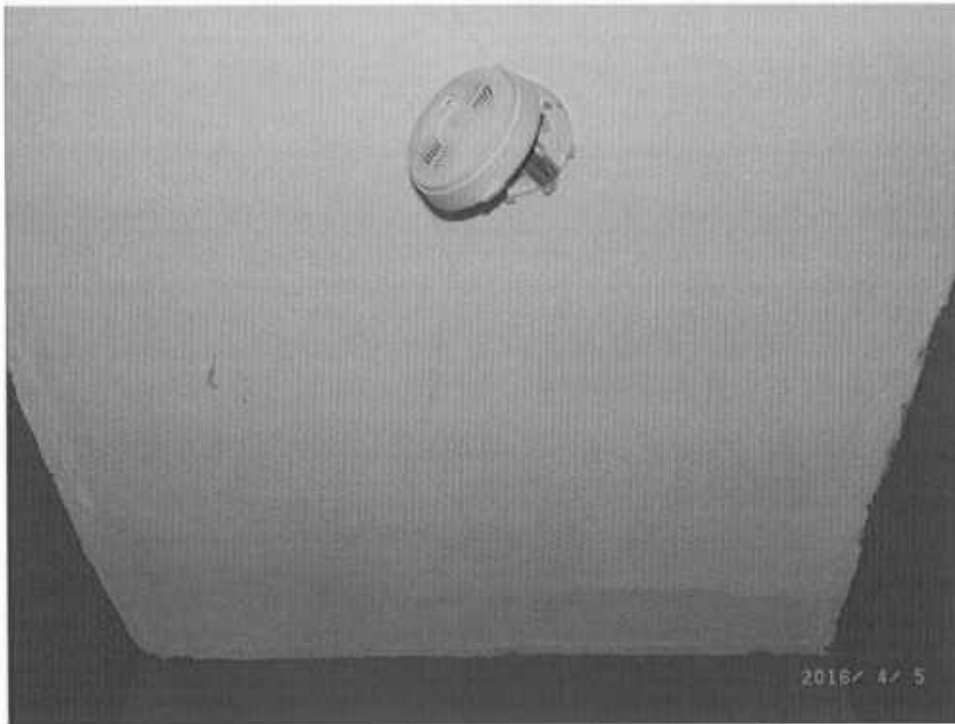
Front elevation



Rear roof detail



Battery powered smoke detector in Hall



Damp staining/damaged plasterwork and decoration to Bathroom ceiling



Damage to Bedroom ceiling



Condensation at Bedroom window



General view of damage to Bedroom



David Godfrey

5th April 2016