



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

prhp Ref: PRHP/RP/16/0003

Re : Property at G/R, 29 Park Avenue, Dundee, DD4 6NE

The Parties:-

Lee Eppy, residing at G/R, 29 Park Avenue, Dundee, DD4 6NE (“the Tenant”)

and

Caledonian Investments No 1 LLP, 3 Windmill Road, St Andrews, KY16 9JJ (“the Landlord”), whose agent is Pavillion Properties (Scotland) Limited, India Buildings, 86 Bell Street, Dundee, DD1 1HN (“the Landlord’s Agent”)

The Committee comprised:-

Mrs Ruth O’Hare - Chairperson

Mr Ian Mowatt - 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 dated 11 January 2016 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
3. By letter dated 5 April 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 Landlord made written representations to the Committee dated 18 April 2016. The Landlord advised that the Tenant had been served with a Notice to Quit and the tenancy was due to come to an end in October 2016.

The Landlord further advised that there had been complaints of antisocial behaviour against the Tenant.

6. The Private Rented Housing Committee attended the Property on 16 May 2016. The Tenant was present and allowed access to the Property. The Committee proceeded to inspect the Property. The Tenant was personally present during the inspection. The Landlord and the Landlord's Agent were not present nor represented.

The Inspection

7. During the inspection the Committee members examined the areas of complaint raised by the Tenant. His complaint was that the floor in the kitchen was uneven and in need of repair or replacement. There was no linoleum, it having been removed following a leak to the room. Further, the front door pertaining to the communal hallway was in need of repair and would repeatedly bang against the wall, causing nuisance and disturbance to the Tenant.
8. The Committee members examined the kitchen floor and noted there were no floor coverings. The floorboards were uneven and there was a hole in the floorboards, close to the window. From readings taken with a damp meter there was no evidence of continuing damp to the floorboards, where tested. The Committee members further examined the front door to the communal hall and noted there was no lock and no mitigation against the door banging. Photographs were taken by the surveyor member and a schedule of photographs is attached to this decision.
9. The inspection was concluded and the Committee members travelled to the venue for the hearing.

The Hearing

10. The hearing took place in Caledonian House, Greenmarket, Dundee. The Tenant was present and accompanied by his stepmother Lindsay Eppy. The Landlord was not present nor represented.
11. The Tenant's submissions in respect of the kitchen floor were as follows: - there had been a leak in the kitchen approximately three years ago. The leak had been repaired however the floorboards and linoleum were left in a damp condition. As a result the linoleum had to be removed. The floorboards were uneven and there was a hole in the corner of the room. The Tenant had reported the issues to the Landlord's agent. The Landlord had instructed joinery contractors to inspect the property however no further work had been carried out. Neither the Landlord nor the Landlord's agent had carried out a periodic inspection of the property. The Tenant had been served with an eviction notice not long after the repairs were reported.
12. The Tenant's submissions in respect of the front communal door were as follows: - since moving to the property the door had not been fully functional. There was no lock. The Tenant had carried out repairs to the door himself however it remained in an unsatisfactory state of repair. The Landlord's agent had mentioned installing a security door however nothing had been done in this regard.

Findings in 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 Tenant which commenced on 1 May 2015. The Tenant has been served with a Notice to Quit which is due to terminate the tenancy on 31st October 2016.

- The Property consists of a ground floor flatted dwellinghouse within an end terrace block. The accommodation comprises an entrance hall, bedroom, bathroom, lounge and kitchen.
- The Property was inspected on the morning of 16 April 2016. The weather was fair and dry.
- There are no floor coverings in the kitchen. The linoleum has been removed.
- The floorboards in the kitchen are uneven. There is a hole in the floorboards near to the window.
- The floor in the kitchen is unsafe and therefore not reasonably fit for human habitation.
- The front door to the communal hallway has no proper lock and no door shutters to prevent it banging against the wall. The door is therefore not in a reasonable state of repair.

Reasons for the decision

14. The Committee determined the application having regard to the terms of the application, the written representations and their inspection and submissions by the Tenant at the hearing.
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.
16. It was apparent to the Committee during their inspection that kitchen floor was unsafe and therefore not reasonably fit for human habitation. There were no floor coverings. The floorboards were uneven and there was a large hole in the floor by the window.
17. It was further apparent that the front door to the communal hallway pertaining to the property was not in a reasonable state of repair. There were no automatic door shutters to minimise any noise nuisance caused by the door banging against the wall and there was no proper lock on the door.
18. The Committee was therefore satisfied that the property did not meet the repairing standard in light of the above noted issues of disrepair.
19. 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".
20. 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

21. 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.
22. The decision of the Committee was unanimous.

Right of Appeal

23. 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

24. 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 20 June 2016

Ruth O'Hare
Chairperson



SCHEDULE OF PHOTOGRAPHS : 29 PARK AVENUE, DUNDEE, DD4 6NE



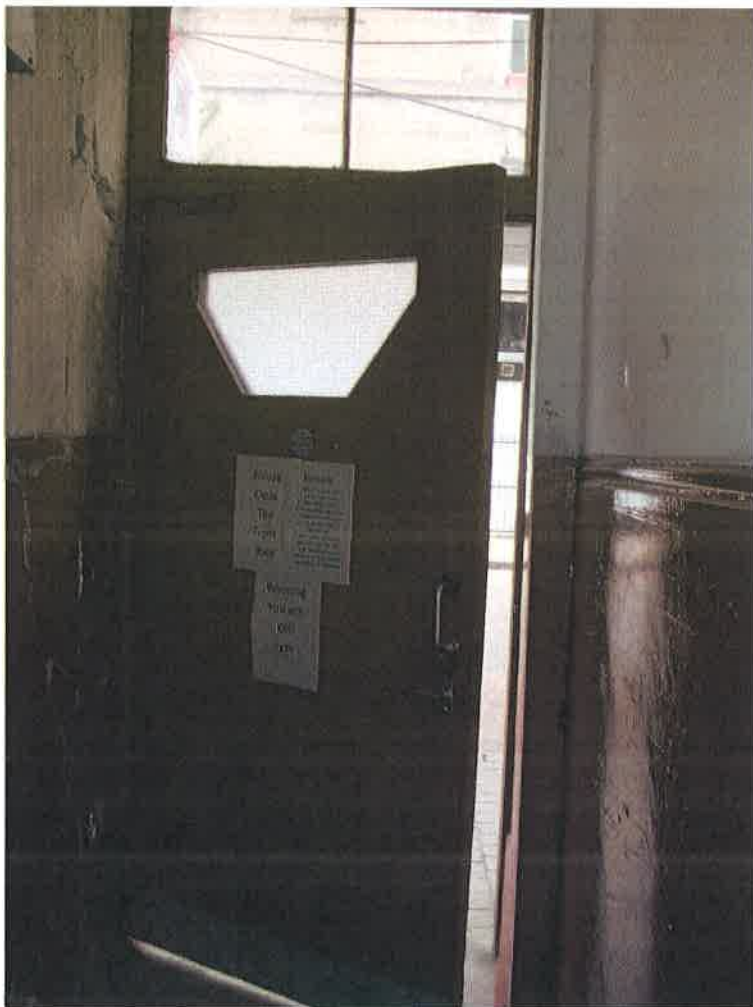
Front Elevation (Ground Floor Flat Right)



Kitchen Floor Timbers (and missing floor covering)



Communal Front Entrance Door (Externally)



Communal Front Entrance Door (Internally)



Repairing Standard Enforcement Order

Repairing Standard Enforcement Order

Order by the Private Rented Housing Committee

Case Reference Number: PRHP/RP/16/0003

Re : Subjects being the right hand or westmost flat on the ground floor of 29 Park Avenue, Dundee, DD4 6NE registered under Title Number ANG25904

("the property")

The Parties:-

Mr Lee Eppy, residing at Flat G/R, 29 Park Avenue, Dundee, DD4 6NE ("the Tenant")

and

Caledonian Investments No 1 LLP, 3 Windmill Road, St Andrews, KY16 9JJ ("the Landlord") whose agent is Pavillion Properties, India Buildings, 86 Bell Street, Dundee, DD1 1HN ("the Landlord's Agent")

The Committee:- Mrs Ruth O'Hare (Chairperson); Ian Mowatt (Surveyor member)

NOTICE TO: Caledonian Investments No 1 LLP ("the Landlord")

Whereas in terms of its decision dated 26 May 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 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:

- repair the front door to the communal hallway pertaining to the property by fitting appropriate door shutters and a proper lock;
- repair and reinstate the floorboards in the kitchen;
- instruct a joinery contractor to carry out a full investigation of the sub-floor area prior to the repair and reinstatement of the floorboards and carry out such works as are necessary to address any identified defects;
- install new floor coverings to the kitchen; and
- 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 eight weeks 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 20 June 2016 before this witness undernoted

R O'Hare

Signed

Ruth O'Hare
Chairperson

N Ward

Signed

Nicole Ward
Paralegal

c/o Aberdeen City Council, Mansfield College,
Broad Street, Aberdeen.