



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/16/0015

Re : Property at 34 Ochiltree Gardens, Edinburgh EH16 5SN ("the Property")

Title Number: MID59285

The Parties:-

M/s Kataryna Kopec, residing at 34 Ochiltree Gardens, Edinburgh EH16 5SN ("the Tenant") and

Douglas Walter Dyball and Mrs Sheila Dyball, residing together at 36 The Spinney, Gilmerton, Edinburgh EH17 7LD ("the Landlord")

NOTICE TO DOUGLAS WALTER DYBALL AND MRS SHEILA DYBALL ("the Landlord")

Whereas in terms of their decision dated 4 April 2016, 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 and in particular that the landlord has failed to ensure that:-

- (a) the Property is wind and water tight and in all other respects fit for human habitation, and
- (b) 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 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 Landlord:-

1. To replace the section of plasterboard ceiling above the cupboard in the rear bedroom of the Property, which appear to have been water damaged and is warped.
2. To carry out appropriate fungicidal treatment to all areas of the Property affected by black mould and thereafter carry out the consequential redecoration and
3. To empty any water that is lying in the plastic container located in the attic of the Property.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of five weeks from the date of service of this Notice.

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.

In witness whereof these presents typewritten on this and the preceding page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade, on 4 April 2016, before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

Valerie Clark

_____ witness

George Clark

_____ chairman



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

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The Parties:-

M/s Kataryna Kopec, residing at 34 Ochiltree Gardens, Edinburgh EH16 5SN (“the Tenant”) and

Douglas Walter Dyball and Mrs Sheila Dyball, residing together at 36 The Spinney, Gilmerton, Edinburgh EH17 7LD (“the Landlord”)

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application, received on 19 January 2016, the Tenant 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 by the Tenant stated that the Tenant considered that the Landlord had failed to comply with the 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 water tight and in all other respects reasonably fit for human habitation and
3. By letter dated 18 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 Tenant.
5. Following service of the Notice of Referral, the Tenant, by letter dated 3 March 2016, and the Landlord, by letter dated 1 March 2016 made written representations to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 4 April 2016. The Tenant was present at the inspection, along with her representative, Mr James Graham, 49 Ochiltree Gardens, Edinburgh. The Landlord was not present or represented at the inspection.
7. A file of photographs, taken at the inspection, is attached to and forms part of this Statement of Decision.

8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at George House, 126 George Street, Edinburgh EH2 4HH. The Tenant and her Representative were present at the hearing. The Landlord was neither present nor represented at the hearing.
9. The Committee comprised George Clark (Chair) and Ian Murning (surveyor member).
10. The Tenant, in her application stated that the Landlord was ignoring requests to stop water leaking through holes in the roof. As a result, the Property was not wind or watertight and the resultant damp and black mould were making the Property not fit for human habitation. The Tenant had been asking since November 2015 for repairs to be carried out. The Landlord had said he would have the leaks repaired but had ignored the issue since then.
11. In her written representation, the Tenant, through her representative, provided a timeline of events between 24 January 2016 and 24 February 2016. It stated that the Landlord had visited the Property on 24 January, had shown the Tenant a quote from a building firm and had expressed surprise that the work had not yet been carried out, as they had been instructed to start. The Tenant had sent 3 e-mails asking the Landlord to confirm when the builders were starting work. The builders had arrived on 5 February and had left again by 12 noon. They had put up a platform and carried out some work, but had not asked to see the leaks from the inside of the Property. On 19 February, the builders had turned up again, but had only been at the Property for half an hour, carrying out some work on the gutter at the front. The Tenant sent a text to the Landlord on 22 February, asking when the builders would be returning to carry on with the work and on 24 February, the Landlord had telephoned to say that all the repair work had been carried out. The Tenant had queried how this could be the case when no-one from the builders had checked the roof from the inside. The black mould on the walls had not been repaired. There had been no rain since that date to enable the Tenant to determine if the leaks had been repaired, but the black mould was still present.
12. In their written representation, The Landlord stated that the roof of the Property had been repaired on two occasions, but the work had not been very well done, so another roofer had had to be instructed to carry out the work properly. The work had been completed on 13 February 2016.
13. The Tenant advised the Committee at the hearing that she had moved in to the Property on 21 March 2014. At that time, the Tenant knew from the previous tenant that the corner of the sitting room at the gable end of the Property had been affected by damp and that the previous tenant had covered the black mould with wallpaper. The Landlord, however, had said that the problem had been fixed. There had been no issue over the drier summer months, but in late 2014, the Tenant had noticed that water was dripping through the ceiling above the cupboard in the back bedroom. She had reported the problem to the Landlord, who had said he would fix it, but did nothing. Once again, the problem was not evident over the summer months of 2015, but when the weather deteriorated, the problem worsened, to the point that the Tenant had had to place a bucket on the top shelf of the cupboard to collect the dripping water. The Landlord had come to the Property twice and had seen the problem and the bucket, but had still done nothing to rectify the situation, so the Tenant had been advised to apply to the Private Rented Housing Panel. The Tenant repeated the timeline of events that had occurred since then and told the Committee that she had been frustrated by the lack of action after the Landlord had clearly seen the problem. The Tenant accepted that work had been done, but there had been no heavy rain since then and she did not know whether the repair had been effective. In any event, nothing had been done about the black mould and she was concerned that it might damage the health of her three children.

Summary of the issues

14. The issues to be determined were whether the Property met the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duties imposed on landlords by Section 14(1)(b) of the Act.

Findings of fact

15. The Committee finds the following facts to be established:-
- The tenancy is a Short Assured Tenancy which commenced on 21 March 2014.
 - The Property comprises a two-bedroom dwellinghouse on the upper floor of a two storey building. It is a former Council house.
 - There is evidence of black mould and peeling wallpaper in the corner of the sitting room, adjacent to the end gable wall and above both curtain tracks. The areas were tested with a moisture meter, but no significant moisture levels were detected.
 - There is a built-in wall cupboard in one corner of the main bedroom. There is significant black mould at high level within the cupboard and the ceiling above it appears to be damaged by water and is warped. There is further evidence of lack mould above the curtain track. There were, however, no significant moisture readings when the areas were tested with a moisture meter.
 - There is a blocked air vent in the second bedroom and evidence of black mould above the curtain track.
 - There is some discolouration of the tiling in the bathroom, but no abnormal moisture readings were obtained.
 - There is evidence that some repair work has recently been carried out to the roof and to the gutter at the front of the Property. Some roof tiles have been replaced and some of the brackets supporting the gutter have been replaced.

Reasons for the decision

16. The Committee accepts that repair works have been carried out externally and that the problem of water penetration may have been resolved, but it will not become clear whether this is the case until there is a period of persistent rain. There were no moisture reading taken within the Property which would indicate an ongoing problem, but the Committee was concerned at the black mould which was found in various locations. The spores from black mould represent a significant health hazard and all affected areas must be treated with a suitable fungicide prior to consequential redecoration. The plasterboard ceiling above the corner cupboard in the main bedroom has been affected by water penetration, has become warped and will require to be replaced and the new section of ceiling redecorated. The surveyor member of the Committee noticed a plastic container in the attic, which appears to have been placed there to collect water coming in through the roof and any water which is in that container will have to be removed.

Decision

17. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
18. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
19. The decision of the Committee was unanimous.

Right of Appeal

20. **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

21. 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.

George Clark

Signed
Chairperson

..... Date 4 April 2016

Private Rented Housing Panel

34 Ochiltree Gardens Edinburgh EH16 5SW

Photographs taken 4th April 2016

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Photograph 1: Front elevation, gutters and roof



Photograph 2 : Rear elevation, gutters and roof

Private Rented Housing Panel

34 Ochiltree Gardens Edinburgh EH16 5SW

Photographs taken 4th April 2016

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Photograph 3: Corner of room at ceiling showing black/grey mould on walls and wallpaper

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Photographs taken 4th April 2016

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Photograph 4: Top of cupboard showing extensive black/grey mould walls and ceiling

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Photograph 5 : Cupboard ceiling showing damaged ceiling panel and black/grey mould



Photograph 6 : Showing black/grey mould above curtain rail at ceiling

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Photographs taken 4th April 2016

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Photograph 7 : Showing black/grey mould above curtain rail