



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Reference number:- PRHP/RP/16/0021

Re: Property at Flat 2, Burnside Place, Cairndow, Lochgilphead, PA24 8AQ, being part of the subjects registered in the Land Register of Scotland under Title Number: ARG20217 ("the Property")

The Parties:-

Mr James Madden, residing at Flat 2, Burnside Place, Cairndow, Lochgilphead, PA24 8AQ ("the Tenant")

Mr Harry Dalton, Carrgomm, having a place of business at 1A Brooklyn Place, George Street, Dunoon, Argyll, PA23 8DG ("the Tenant's Representative").

Mrs Christine MacLaren, residing at 8M Hazelden Park, Giffnock, Glasgow, G44 3HA ("the Landlord")

Messrs J B and G Forsyth, having a place of business at 79 West Regent Street, Glasgow, G2 2AS (the Landlord's agents")

NOTICE TO Mrs Christine MacLaren, residing at 8m Hazelden Park, Giffnock, Glasgow, G44 3HA ("the Landlord")

Whereas in terms of their decision dated 3 May 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 ("The Act") and in particular that the landlord has failed to ensure that:-

- (a) The property is wind and water tight and in all other respects reasonably fit for human habitation (all as required by Section 13(1)(a) of the Act).
- (b) 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 (all as required by Section 13(1)(c) of the Act).
- (c) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order (all as required by Section 13(1)(d) of the Act).

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 to:-

- (a) Carry out such works as are necessary to the front door of the property so that it is wind and watertight, in a reasonable state of repair and capable of being reasonably secured and locked.
- (b) Renew and/or repair the current cooker so that the appliance provided by the Landlord was in a reasonable state of repair and in proper working order.
- (c) Carry out such works as are necessary to repair the roof and ceiling at the bay window of the living room so that the property was wind and water tight.
- (d) Carry out such works as are necessary to repaint and/or re-plaster the walls of the shower room so that the shower room is reasonably fit for human habitation.
- (e) Obtain an Electrical Installation Condition Report in respect of the property and to thereafter carry out such works as that report may recommend as necessary to ensure that the electrical supplies within the property meet current safety standards and recommendations and are in a reasonable state of repair and in proper working order.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 4 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.

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 type written on this page and the two preceding pages are executed by Andrew Cowan, chairperson of the Private Rented Housing Committee at Glasgow on 3 May 2016 before this witness:-

Andrew Cowan

Signed
Andrew Cowan Chairperson

Laura McManus

..... Witness

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA



Determination by Private Rented Housing Committee

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:-

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Mrs Christine MacLaren, residing at 8M Hazelden Park, Giffnock, Glasgow, G44 3HA ("the Landlord")

Messrs J B and G Forsyth, having a place of business at 79 West Regent Street, Glasgow, G2 2AS (the Landlord's agents")

Decision

The Private Rented Housing Committee ("the Committee"), having made such enquiries as it saw fit for the purpose of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property concerned, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Committee consisted of

Mr Andrew Cowan – Chairperson

Mr Kingsley Bruce – Surveyor Member

Background

1. By application received by the Private Rented Housing Panel ("the Panel") on 21 January 2016, the Tenant applied to the Panel for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Act.

2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with her duty to ensure that the property meets the repairing standard.
3. The Tenant annexed to his application a copy of a letter he had sent by recorded delivery on 15 December 2015 to the Landlord's agents. The letter listed a summary of issues which the Tenant believed the Landlord required to carry out in order to bring the property up to the Repairing Standard.
4. A summary of the alleged breaches of the repairing standard brought forward by the Tenant are:-
 - (a) The front door is not wind and watertight;
 - (b) The electric heater in the bedroom is not working;
 - (c) There are no kitchen worktops in the kitchen and the cooker is not working properly;
 - (d) There is water ingress into the living room area from the roof of the property;
 - (e) The shower room is not properly ventilated;
 - (f) The Tenant is not satisfied that the electrics throughout the property meet the repairing standard and it is the Tenant's opinion that all electrics in the property require to be tested; and
 - (g) The pipes and cables leading to the boiler are exposed.
5. The Panel served a notice of referral, inspection and hearing, dated 3 March 2016 under Section 22(1) of the Act on the Landlord, the Landlord's agents, the Tenant and the Tenant's representative.
6. In terms of the notice of referral all parties were advised that the Committee intended to inspect the property on 18 April 2016 and to thereafter hold a hearing in relation to the application on the same date.

The Inspection

7. The Committee proceeded with the inspection on 18 April 2016. The Committee attended at the property where they carried out an inspection of the property. Present during the inspection were the Tenant, the Tenant's Representative, together with Mr William Hutchison and Mr Gordon Hutchison (as representatives of the Landlord's Agents).
8. Photographs were taken during the inspection by the Committee. Copies of the photographs taken by the Committee are attached as a schedule to this report.
9. At the inspection the Committee noted the following points:-
 - (a) The front door of the property was generally in poor condition. The Committee noted that a plywood board had been attached to the rear of the upper part of the door and a timber threshold had been installed externally. The Committee noted that there were significant draughts through and around the door. The Committee further noted that a number of temporary repairs had been carried out to the door and to the locking mechanism for the door.
 - (b) The Committee noted there was no electric heater in the bedroom.
 - (c) The Committee noted there was a minimal worktop within the kitchen which housed the kitchen sink. That worktop was in a reasonable state of repair. The Committee examined the cooker within the property and noted that only one of four electric heating elements on the cooker operated correctly.
 - (d) The Committee noted that the ceiling area of the bay window of the lounge showed some evidence of water staining. Externally, the Committee further noted that the slating on the bay window roof showed some disturbance and that flashings between the wall and the slated roof above the bay window of the lounge were weathered.

- (e) Within the shower room of the property, the Committee noted that the window is capable of being opened in a normal manner and that there was an electric fan situated within the shower room. The shower room showed evidence of extensive condensation dampness, including flaked and peely paint and cracked or broken plasterwork.
- (f) The Committee noted that the boiler which was situated within the kitchen of the property had exposed pipes which led to and from the boiler along with an electric cable which supplied the immerser fitting of the boiler.

The Hearing

- 10. The Committee had previously advised all parties that they intended to hold a hearing in relation to the Tenant's application following upon their inspection of the property at Cairndow Stagecoach Inn Hotel, Cairndow, Cairndow, PA26 8BN. The Tenant attended the hearing, as did Mr William Hutchison and Mr Gordon Hutchison as representatives of the Landlord's Agents.
- 11. At the start of the hearing, the Committee explained to those present the purpose of their inspection and the purpose of the hearing. It was explained to the parties present that the Committee were required to determine whether the property met the Repairing Standard. The Committee had seen correspondence in relation to issues arising from the Landlord's apparent inability to gain access to the property. The Committee explained to the parties present that these issues were not matters which were within their jurisdiction insofar as the current application was concerned.
- 12. The Committee thereafter heard evidence from parties in relation to each part of the Tenant's complaint: -
 - (a) In relation to the front door of the property, the Tenant complained that it was not wind and water tight. His evidence was that he had required to put a board on the upper part of the door to stop draughts coming through the the main door. He

explained that there were excessive draughts which came through the door and under the door. He further complained that he was unable to secure the property in a reasonable manner as often the only lock on the door for which he had a key (the yale lock) would jam from outside. There was another lock on the door, but he had never been given a key for that lock. In the circumstances, he maintained that the door was not wind and watertight and not able to be properly secured.

Mr Hutchison, on behalf of the Landlord, confirmed that the Landlord was happy to carry out necessary repairs to the front door so that it was wind, water tight and capable of being secured.

Taking account of the evidence heard from the parties and, further taking account of their own observations at the time of the inspection, the Committee were satisfied that the front door of the property, being a fixture supplied by the Landlord under the tenancy, was not in a reasonable state of repair or in proper working order. In addition, the Committee were satisfied that as a consequence of the condition of the front door, the house is not wind and water tight and in all other respects reasonably fit for human habitation (all as required by Section 13(1)(a) and Section 13(1)(d) of the Act).

- (b) The Tenant had complained, in his application, that the electric heater in the bedroom was not working. The Tenant clarified at the hearing that there had never been an electric heater in the bedroom. His complaint appeared in fact to be that there was no sufficient heating within the bedroom. The Committee noted that this is not the complaint which the Tenant had stated in his application and accordingly determined that they could not further consider the Tenant's complaint in relation to this issue. The Committee were not satisfied that the matter which the Tenant had complained of in his application related to a failure to meet the Act.

- (c) With regard to the Tenant's complaint that there were no kitchen worktops in the kitchen, the Tenant accepted at the hearing that the only small worktop which was in the kitchen was supplied by the Landlord at the time that he took up the tenancy of the property. There had never been any other kitchen worktops within the property. In the circumstances, the Committee determined that, as the only worktop which had been supplied by the Landlord was in a reasonable state of repair, there was no failure of the Repairing Standard in relation to that matter.

The Tenant further explained that the cooker which had been supplied by the Landlord was not working properly. The Committee had noted that three of the four electrical heating elements on the top part of the cooker were not operational. The Tenant further explained in his evidence that the grill section of the cooker was not working. The Landlord's Agents accepted that the cooker was not fully operational. The Committee accordingly determined that the cooker, as a fixture supplied by the Landlord under the tenancy is not in a reasonable state of repair and in proper working order (all as required by Section 13(1)(d) of the Act).

- (d) In his evidence to the Committee, the Tenant complained that, particularly in periods of heavy wind and rain, there is water ingress into the living room from the area above the bay window. The Tenant explained that the water ingress on such occasions of extreme weather formed a steady drip. The Committee had noted from their own observations evidence of water ingress in the roof area at the bay window in the living room and the Landlord's Agents did not seek to refute the evidence of some water ingress.

The Committee accordingly determined that the property is not wind and watertight (all as required by Section 13(1)(a) of the Act).

- (e) With regard to the Tenant's complaint that the shower room within the property is not properly ventilated, the Committee had noted that there is an electrical extractor fan in the shower room and the window is capable of being opened. The shower room itself is a particularly small room and it is the Committee's view that, over a period of time, it is inevitable that there will be some effect of steam and condensation within such a small room which has no form of heating. The Tenant explained that, when he could, he sought to ensure the room was adequately ventilated when using the shower by the opening the window and by using the electric extractor fan. The Tenant did confirm that it was not always possible to open the window, particularly in winter when the weather was cold.

The Tenant has been in the property for approximately 10 years and throughout that period there has been no decoration carried out to the shower room. The paint work and plasterwork within the bathroom are now in a particularly poor condition and there is flaked and peeling paint and cracked or broken plasterwork within the shower room. The Committee formed the view that the shower room is not reasonably fit for purpose and it is not fit for human habitation given the extent of the deterioration of the paint on the walls and the plasterwork from extensive condensation (all as required by Section 13(1)(a) of the Act).

- (f) The Tenant complained that the electrics throughout the property did not meet the Repairing Standard. The Tenant gave evidence to the Committee that, on at least two occasions per week, the electrical installations in the property would fuse when certain appliances were operated. The Tenant further complained that on occasion the lights within the property would flicker. The Committee were satisfied that the evidence of the Tenant, taken along with the fact that there was no current Electrical Safety Certificate for the property exhibited to the Committee, was sufficient for the Committee to determine that the installations in the house for the supply of electricity were not in a reasonable state of repair and in proper working order (all as required by Section (13)((1)(c) of the Act).

- (f) The Committee noted that the boiler which was situated in the kitchen of the property did have exposed pipes and cables. The Committee were not, however, satisfied that there was any failure of the Repairing Standard in relation to any of that apparatus.

Decision

13. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act in the following respects:-

- (a) The front door of the property is not wind and watertight and is not in a reasonable state of repair or in proper working order. The Committee accordingly determined that they would issue a Repairing Standard Enforcement Order ("RSEO") requiring the Landlord to carry out such works as are necessary to the front door of the property so that it is wind and watertight, in a reasonable state of repair and capable of being reasonably secured and locked.
- (b) The Committee determined that the cooker which had been supplied by the Landlord under the tenancy was not in a reasonable state of repair or in proper working order. The Committee accordingly determined that they would issue a RSEO requiring the Landlord to renew and/or repair the current cooker so that the appliance provided by the Landlord was in a reasonable state of repair and in proper working order.
- (c) The Committee determined that the ingress of water at the bay window of the living room meant that the house was not wind and water tight. The Committee accordingly determined that they would issue a RSEO requiring the Landlord to carry out such works as were necessary to repair the roof and ceiling at the bay window of the living room so that the property was wind and water tight.
- (d) The Committee determined that the shower room within the property was not reasonably fit for human habitation. The Committee accordingly determined that they would issue a RSEO requiring the Landlord to carry out such works as are necessary

to repaint and/or re-plaster the walls of the shower room so that the shower room is reasonably fit for human habitation.

- (e) The Committee were satisfied that there was evidence that the installations in the property for the supply of electricity were not in a reasonable state of repair and in proper working order and accordingly determined to issue a RSEO requiring the Landlord to obtain an Electrical Installation Condition report in respect of the property and to thereafter carry out such works as that may recommended in terms of that report as necessary to ensure that the electrical installations within the property meet current safety standards and recommendations and are in a reasonable state of repair and in proper working order.

Observations

- 14. During the course of the inspection and the hearing, the Committee noted further points which were not specifically raised by the Tenant in his application. The Committee noted that the Tenant has installed one battery smoke detector within the property. The Tenant explained that there had never been any other smoke detectors supplied by the Landlord. The Committee were concerned that the apparatus within the property for the detection of fires and for giving warning in the event of fire or suspected fire does not comply with current regulations. The Committee therefore strongly recommend that the Landlord carries out such works as are necessary to ensure that appropriate and satisfactory provision for detecting fires is installed within the property in compliance with current regulations.

- 15. The Committee noted that, in the kitchen of the property, there was a hole in the wall at the right hand side of the kitchen window. The Tenant had complained that there were draughts from this area and that mice and other vermin enter the kitchen through the hole in the wall. The Committee recommend that the Landlord should investigate this area of the wall in the kitchen and carry out necessary repairs.

16. The Committee had noted correspondence which had passed between the Landlord and the Tenant in advance of the inspection and hearing of the property. The Committee noted that the Landlord had made recent attempts to arrange access to the property for the purpose of the inspecting the property with a view to determining the extent of any repairs required. The Committee emphasised to all parties that it was in both parties' interests for the Landlord to give reasonable notice to the Tenant of future access requests and reasonable notice to the Tenant of the Landlord's intentions to carry out any works within the property. It was also emphasised to the Tenant that it would considerably assist the Landlord, in meeting the obligations of the Repairing Standard if the Tenant would ensure reasonable access to the property as requested by the Landlord.

17. The decision of the Committee was unanimous.

Right of Appeal

18. 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

19. 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.

Andrew Cowan

Signed 
Andrew Cowan, Chairperson

Date 3 May 2016

Laura McManus

.....Witness
Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA

Schedule of Photographs re Flat 2, Burnside Place, Cairndow, Lochgilphead, PA24 8AQ



1 – Front Door



2 – Front Door



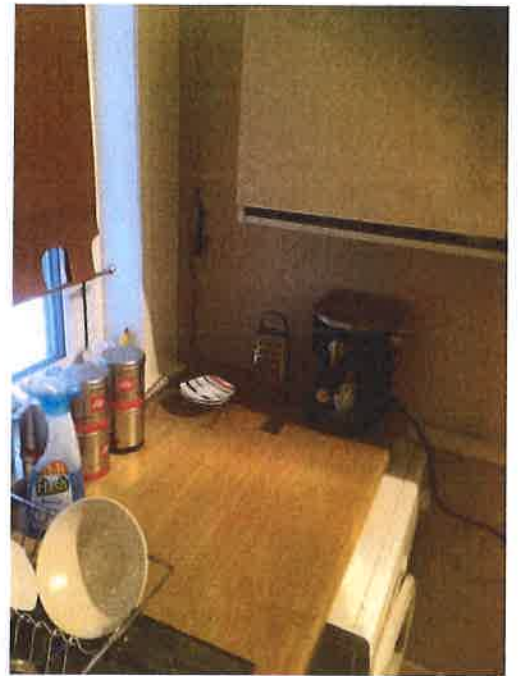
3 – Front Door



4 – Front Door



5 – Kitchen Worktop



6 – Kitchen Worktop



7 – External View Living Room Bay Window



8 – Shower Room



9 – Shower Room



10 – Shower Room



11 – Boiler