



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Reference number: PRHP/RT/16/0023

Re: Property Situated at and known as the Ground Floor Flat, Old Coach House, Cameron Close, Lockerbie, DG11 2FG, being part of the subjects registered in the Land Register of Scotland under Title Number DMF4197 ("the Property")

The Parties:

Mr Tahsin Yildiz, residing at 45 Brook Street, Dumfries, DG1 2JL ("the Landlord")

Dumfries and Galloway Council, Municipal Buildings, Buccleuch Street, Dumfries, DG1 2AD ("Third Party Applicant")

NOTICE TO Mr Tahsin Yildiz, residing at 45 Brook Street, Dumfries, DG1 2JL ("the Landlord")

Whereas in terms of their decision dated 5 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 ("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.
- (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.

- (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.

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 required to ensure that the French doors to the property are capable of locking, secure, wind and watertight and in proper working.
- (b) Carry out a certificated electrical condition check (EICR) on the entire electrical installation of the property, by a suitably qualified and registered SELECT or NICEIC electrical contractor. Carry out works as recommended by that check to ensure that the entire electrical installation is safe, functional and in proper working order. Carry out all ancillary works and decoration associated with these works

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 6 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 and the preceding two pages are executed by Andrew Cowan, chairperson of the Private Rented Housing Committee at Glasgow on 5 April 2016 before this witness:-

A Cowan

Signed Date 5 April 2016
Andrew Cowan, Chairperson

L 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

Reference number: PRHP/RT/16/0023

Re: Property Situated at and known as the Ground Floor Flat, Old Coach House, Cameron Close, Lockerbie, DG11 2FG, being part of the subjects registered in the Land Register of Scotland under Title Number DMF4197 ("the Property")

The Parties:

Mr Tahsin Yildiz, residing at 45 Brooke Street, Dumfries, DG1 2JL ("the Landlord")

Dumfries and Galloway Council, Municipal Buildings, Buccleuch Street, Dumfries, DG1 2AD ("Third Party Applicant")

Decision

The Private Rented Housing Committee ("the Committee"), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property concerned and, taking account of the evidence led by both the Landlord and the Third Party Applicant in writing and at the hearing, 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 Andrew Taylor – Surveyor Member

Background

1. By application received by the Private Rented Housing Panel ("the Panel") on 21 January 2016, the Third Party Applicant 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 Third Party Applicant are (in terms of Section 22(1)(B) of the Act) a party who may apply to the Panel for a determination as to whether the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

3. The Third Party Applicant has stated within their application details of why they consider the Landlord has failed to meet the repairing standard. They have provided details of the nature and the work which they consider requires to be completed by the Landlord to ensure that the property meets the repairing standard. In terms of a letter dated 21 September 2015, the Third Party Applicant had intimated to the Landlord a list of defects which they considered the Landlord required to repair in order to bring the property up to the repairing standard. A summary of the alleged issues brought forward by the Third Party Applicant are:-
 - (a) There is evidence of dampness in the living room of the property. There is also evidence of rain water leaks through the living room ceiling;

 - (b) Electrical wiring within the property has been condemned by an electrician and sockets in the small rear bedroom, and the living room, of the property do not work. A socket in the hallway had been damaged by an overloaded plug and was not in a safe condition;

 - (c) The ceiling light fitting in the bathroom was broken and the ceiling mounted light switch in the bathroom had been removed and only bare wires were now protruding from the ceiling;

 - (d) The oil fired central heating boiler (which was located within a cupboard in a bedroom of the property) gave off nauseating fumes, that made occupation of the bedroom unreasonable;

- (e) The French doors to the rear of the property have no key and the property was unable to be secured;
 - (f) The property had only one smoke alarm in the hallway of the property and accordingly there were insufficient smoke detectors within the property;
4. Following receipt of the application the President of the Panel referred the application to the Committee in terms of her decision dated 1 February 2016.
 5. The Committee thereafter served a Notice of Referral, inspection and hearing dated 19 February 2016 upon both the Landlord and the Third Part Applicant. The Committee also served a copy of Notice of Referral, inspection and hearing upon the Tenant of the property, Miss Emily Crawford. The parties and the Tenant were advised that the Committee intended to inspect the property on 31 March 2016. The parties were further advised that a hearing would be held by the Committee in relation to the application on 31 March 2016 after the Committee had inspected the property.
 6. The Tenant of the property vacated the property on or around 25 March 2016. The Tenant did not participate in the proceedings in relation to the application.
 7. The Committee proceeded with the inspection and the hearing on 31 March 2016. The hearing and inspection were attended by:-
 - (a) The Landlord;
 - (b) The Landlord's solicitor, Miss Elaine Kennedy Walton, of Messrs Primrose and Gordon Solicitors, 1 Newall Terrace, Dumfries, DG1 1LN; and

- (c) Mr Robert Rome, HMO Licencing and Landlord registration officer, representing Dumfries and Galloway Council.

The Inspection

- 8. Photographs were taken during the inspection by the Committee. Copies of photographs taken by the Committee are attached as a schedule to this report.

- 9. At the inspection the property the Committee noted the following points:-
 - (a) The Committee inspected each of the rooms in which the Third Party Applicant had complained there was evidence of dampness. The Committee used a hand held moisture conductivity meter and noted that there were low readings of moisture at one point within the living room area of the property at a corner external wall. The Committee further noted that there was slight black spotting/mould on the wall at this point. The Committee noted that there were negligible readings of moisture and dampness within the hallway and the bedroom of the property. The Committee further noted that a repair had been carried out to the roof of the living room of the property where it had been alleged that there had been previous ingress of water through the ceiling;

 - (b) Electric sockets in the small rear bedroom of the property and the adjoining wall of the living room of the property were not operable. The Committee noted that a new socket had been installed in the hallway;

 - (c) The Committee noted that a new ceiling light fitting and ceiling switch for the light had been fitted in the bathroom of the property;

 - (d) The Committee noted that a new oil fired central heating boiler had been installed in a cupboard situated in the larger bedroom of the property. The Committee further noted

that the cupboard in which the boiler was situated had a balanced flu and there was no evidence of excessive nauseating fumes;

- (e) The Committee noted that the locking mechanism to the French doors to the rear of the property was not in proper working order. The Committee further noted that the French doors at the rear of the property were in a poor condition and were not wind and watertight and were not able to close in a manner which could properly secure the property; and
- (f) The Committee noted that interlinked smoke detectors had now been installed in the hallway and the lounge of the property and a heat detector had been installed in the kitchen of the property. The Committee further noted that a carbon monoxide detector had been installed in the bedroom outside the cupboard in which the oil fired central heating boiler was located.

The hearing

10. The Committee took account of the evidence which had been provided by both the Landlord and the Third Party Applicant in writing. The Committee went through each of the Third Party Applicant's complaints and reported on their observations following the inspection earlier in the day.
11. The Committee advised parties of their observations from their inspection of the property that there was no material evidence of any penetrating dampness within the property. The Committee had found low moisture readings at one low part of the living room wall where they had also noted minor black mould/spotting on the wall surface. The Committee had found no other evidence of any significant dampness within the property. Using their own skill and experience and, taking account of the evidence which the Committee had observed at the inspection, the Committee were satisfied that the property does not suffer from significant dampness. The Committee noted

that there had previously been water ingress through the ceiling of the living room in the property. The committee noted that the Landlord had instructed and carried out a repair in this respect and there was no continuing issues in relation to that area of the ceiling. The Third Party Applicant accepted the findings of the Committee in relation to these issues. In the circumstances, the Committee did not accept that there was a failure by the Landlord to meet the repairing standard in relation to these issues.

12. The Committee had found that certain of the electrical sockets within the property (in the small bedroom and in the living room) did not operate. This was accepted by the Landlord. In the circumstances, the Committee determined that these installations in the property (for the supply of electricity) were not in a reasonable state of repair and were not in proper working order, all as required by Section 13(1)(d) of the Act.
13. The Committee noted that, since the date the application was raised by the Third Party Applicant, the Landlord has carried out work within the bathroom of the property, and that the ceiling light fitting and the ceiling mounted switch for the bathroom light have now been repaired and are in proper working order. The Committee accordingly found no failure of the repairing standard in relation to these matters.
14. The Committee noted that, since the date the application was raised by the Third Party Applicant, the Landlord has fitted a new oil fired central heating boiler which is located in the cupboard within the larger bedroom of the property. A carbon monoxide monitor has also been fitted outside the cupboard within the bedroom itself. The Committee were satisfied from their inspection of this fixture that the boiler, was in proper working order. The Committee were not satisfied that there was any evidence, at the date of the hearing, that there were any noxious fumes emanating from the boiler, and accordingly found that there was no failure of the repairing standard by the Landlord in relation to this matter.

15. The Committee had found the locking mechanism to the French doors which led to the rear of the property was not operational. In addition, the Committee had noted that the French doors themselves are in need of repairs as they are rotten in places and as a consequence are not capable of being fully and properly secured. The Landlord accepted the Committee's findings in this respect and indicated that he planned to replace the French doors with new doors. The Committee determined that the French doors were a fixture supplied by the Landlord under the tenancy and were not in a reasonable state of repair or in proper working order all as required by Section 13(1)(d) of the Act.

16. The Committee noted that, since the date the application was raised by the Third Party Applicant, the Landlord has installed new inter-linked smoke detectors within the hallway and the lounge of the property and has also installed a heat detector within the kitchen. The Committee determined that the works carried out by the Landlord ensured that the property now met with the current guidance issued by the Scottish Government and that there was accordingly satisfactory provision for the detection and warning of fire within the property. The Committee accordingly determined that there was no failure of the repairing standard by the Landlord in this respect.

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. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1) of the Act.

18. The decision of the Committee was unanimous.

Right of Appeal

19. 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

20. 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.

A Cowan

Signed
Andrew Cowan, Chairperson

Date 5 April 2016

L McManus

.....Witness

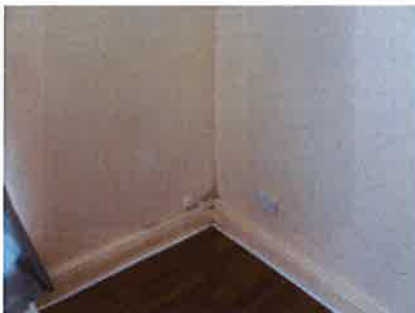
Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA



Ground Floor Flat, Old Coach House, Cameron Ct, Lockerbie,
DG11 2FG
PRHP/RP/16/0023
Schedule of Photographs - Inspection Date 31/03/2016
Weather – Dry, partly cloudy



1. The property



2. Mould at Living Room



3. Mould at Living Room



4. Mould at Hall/Bedroom



5. Rear patio door



6. Rear Patio Door



7. Rear Patio Door



8. Living Room Electrical Socket



9. Bedroom Electrical Socket



10. Bedroom Electrical Socket



11. Bathroom Light Pull Switch



12. Oil-fired Central Heating Boiler



13. Hard Wired Heat Detector Kitchen



14. Hard Wirrdc Smoke
Detector Hall



15. Hard Wired Smoke
Detector Living Room



16. Carbon Monoxide Detector
Bedroom

