



Repairing Standard Enforcement Order

Order by the Private Rented Housing Committee

Case Reference Number: PRHP/RP/16/0040

Re : The property at 96 Ashgrove Road West, Aberdeen, AB16 5BD being the subjects registered in the Land Register of Scotland under Title number ABN73177

("the property")

The Parties:-

Hassan Ghanduri, residing at 96 Ashgrove Road West, Aberdeen, AB16 5BD ("the Tenant")

and

Samuel Ahamefule, Staff House, Woodend Hospital, Eday Road, Aberdeen ("the Landlord") who's agent is AM-PM Leasing, 441 Union Street, Aberdeen, AB11 6DA ("the Landlord's Agent")

The Committee:- Mrs Ruth O'Hare (Chairperson); Colin Hepburn (Surveyor member)

NOTICE TO: Samuel Ahamefule ("the Landlord")

Whereas in terms of its decision dated 20 June 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 installations in the house for the supply of gas and electricity are not in a reasonable state of repair nor in proper working order.

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:

- Instruct a professional window installer to carry out a full inspection of all windows in the property and carry out any works identified to ensure the property is wind, watertight and in a reasonable state of repair.
- Repair or replace the toilet seats in both the downstairs washroom and the upstairs bathroom;
- Repair or replace the shower screen in the upstairs bathroom to prevent water spillage and carry out works to reinstate the bathroom flooring and kitchen ceiling as required;

- Replace the surround for the sink in the upstairs bathroom so that it is secure and fit for purpose;
- Instruct a gas safety certificate from a GasSafe registered contractor and carried out any works identified to ensure the installations within the property for the supply of gas are in a reasonable state of repair and in proper working order;
- Instruct an inspection report by a qualified electrician and carry out such works identified in the report to ensure the installations within the property for the supply of electricity are in a reasonable state of repair and in proper working order;
- Carry out repairs to the oven and cooker hob to ensure both are in proper working order;
- Carry out works to the summerhouse to repair the roof;
- Repair the gate in the front garden to ensure it closes properly;
- Carry out the necessary works to resecure the loose and damaged sections of the concrete copings pertaining to the walls in the back and front garden;
- Repair the door bell;
- Repair or replace the side door to the garage to ensure it is fully functional;
- Repair the corroded hand rails in the front garden;
- 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 20 June 2016 before this witness undernoted

Ruth O'Hare
Ruth O'Hare

Signed

Ruth O'Hare
 Chairperson

Nicole Ward
Nicole Ward

Signed .

Nicole Ward
 Paralegal

*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/16/0040

Re : Property at 96 Ashgrove Road West, Aberdeen, AB16 5BD ("the Property")

The Parties:-

Hassan Ghanduri, residing at 96 Ashgrove Road West, Aberdeen, AB16 5BD ("the Tenant")

and

Samuel Ahamfule, Staff House, Woodend Hospital, Eday Road, Aberdeen ("the Landlord") who's agent is AM-PM Leasing, 441 Union Street, Aberdeen, AB11 6DA ("the Landlord's Agent")

The Committee comprised:-

Mrs Ruth O'Hare - Chairperson
Mr Colin Hepburn - 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 27 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;
 - (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; and
 - (c) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
3. The Applicant submitted along with his application a copy of the inventory for the property which had been provided to him by the Landlord's Agent at the start of the tenancy and upon which he had marked the issues of disrepair.

4. By email dated 2 March 2016 the Applicant intimated further to his application that the following issues remained outstanding: there were items in the garden that required to be fixed; the garage door could not be opened; two electrical points had failed testing and could not be used; the oven was not working; there were drafts from the windows and fittings within the bathroom were broken and could not be used.
5. By letter dated 19 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.
6. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlord, the Landlord's Agent and the Applicant.
7. The Private Rented Housing Committee attended the Property on the morning of 31 May 2016. The Tenant was present and allowed access to the Property. The Landlord was not present nor represented. The Committee proceeded to inspect the property.

The Inspection

8. During the inspection the Committee members examined the various areas of complaint raised by the former Tenant.
9. The Committee members examined the downstairs washroom. The toilet seat was broken and did not appear capable of use.
10. The Committee members examined the living room. It was noted that two electrical plug sockets had been inspected in August 2015 by an electrician and marked unsafe. Neither could be used. The Committee inspected the windows from which the Tenant advised there were significant drafts. The Committee did not witness any drafts but noted the seals around the window were aged and may require repair.
11. The Committee members examined the kitchen. The boiler (Ideal Mexico Super 2) was contained within a cupboard therein. It appeared in proper working order. The Committee inspected the kitchen appliances. The oven had no door and could not be used. One of the gas burners on the cooker did not function. The Committee examined the windows in the kitchen. The Committee did not witness any drafts but noted the seals around the window were aged and may require repair. There was evidence of water staining and damage to the plaster of the kitchen ceiling.
12. The Committee examined the upstairs bedrooms. In the front right-hand bedroom the Committee noted sellotape had been applied to the window to prevent drafts. The seals around the window were aged albeit there was no evidence of drafts at the time of the inspection. There was a hole in the wall with an electrical cable protruding therefrom. The Committee further examined the windows in the front left-hand and back bedrooms. Again the seals around the windows appeared aged albeit there was no evidence of drafts at the time of the inspection.
13. The Committee examined the upstairs bathroom. The toilet seat was loose and unsteady. The seal of the shower screen fixed to the bath was damaged and leaking water. The surround for the sink was unstable and appeared unfit for purpose.
14. The Committee members noted smoke alarms in the living room, downstairs hall, kitchen and upper hall. The alarms were in working order.
15. The Committee proceeded outside. They examined the back garden. Some of the concrete copings on the garden wall were loose and damaged. The Committee inspected the summerhouse at the back of the garden. The roof was damaged and leaking water. The Committee then examined the front garden. There were concrete copings on the

garden wall that were loose. The front gate to the garden did not close properly and the metal hand rails were corroded. The doorbell pertaining to the property did not work.

16. The Committee examined the garage. The side door had swollen due to water damage and could not be opened. Access could only be gained via the front door of the garage.
17. During the inspection photographs were taken by the surveyor member and a schedule of photographs is attached to this decision.
18. The inspection was concluded and the Committee members travelled to the venue for the hearing.

The Hearing

19. The hearing took place in the Credo Centre, 14-20 John Street, Aberdeen. Neither the Landlord nor the Landlord's Agent were present or represented. The Tenant was present.

20. The Tenant's submissions were as follows:-

- (i) There had been various issues of disrepair at the start of the tenancy which had been intimated to the Landlord's Agent by the Tenant by way of noting on the inventory. Some of the matters had been attended to but a number were still outstanding.
- (ii) The toilet seat in the downstairs washroom had broken after the tenancy had commenced. The Tenant had written to the Landlord's agent asking for this to be fixed. Nothing had been done in this regard.
- (iii) The Landlord's Agent had sent a contractor to check the windows throughout the property. The contractor had indicated that the windows required to be replaced. However the Landlord's Agent had indicated that the costs of these works would be too expensive for the Landlord.
- (iv) The door to the oven had been taken away for repair by a contractor on behalf of the Landlord's Agent in October 2015. The top oven does not work. Neither the top oven nor the main oven had been capable of use during the tenancy. The main gas burner on the cooker hob did not work.
- (v) In August 2015 the Landlord's Agent had instructed an electrician to carry out an inspection of the property. The electrician had stated to the Tenant that the wiring throughout the property required to be replaced. The system within the property was very old. The two sockets in the living room had been marked unsafe and could not be used. The Landlord's Agent had recently indicated that they would be instructing an electrician to carry out remedial works in early course.
- (vi) In the upstairs bathroom water would leak out when the shower was in use due to damage to the seal of the shower screen. This resulted in water staining and damage to the plaster to the kitchen ceiling. The toilet seat was loose and the surround for the sink was unsteady and not fit for purpose.
- (vii) Since October 2015 the Tenant had been unable to access the garage through the side door. Rain had caused the door to warp. The Tenant could access the garage through the main door using a remote control. This had been purchased by the Tenant as the Landlord's Agent had failed to provide same.
- (viii) The gas boiler within the property was inefficient. Neither the Landlord nor the Landlord's Agent had produced a gas safety certificate. A contractor had attended the property a few weeks prior to the hearing and had checked the

boiler. He appeared to confirm that it was in proper working order. It took a long time to heat the house. The Tenant's gas bills were high.

- (ix) The door bell has not worked since the tenancy commenced.

Findings in fact

21. 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 15 April 2015.
- The Property consists of a two storey terraced dwelling house. The accommodation comprises a downstairs and upstairs hall, three bedrooms, bathroom, washroom, living room, kitchen and dining room with front and back gardens and a detached single garage.
- The installations in the property for the supply of electricity are not in a reasonable state of repair nor in proper working order and do not meet the repairing standard.
- The toilet seat in the downstairs washroom and the toilet seat, shower screen and sink surround in the upstairs bathroom are not in a reasonable state of repair and do not meet the repairing standard.
- The main oven, top oven and cooker hob are not in a reasonable state of repair and do not meet the repairing standard.
- The walls, hand rail and gate in the front garden and the front doorbell are not in a reasonable state of repair and do not meet the repairing standard.
- The walls and the summerhouse in the back garden are not in a reasonable state of repair and do not meet the repairing standard.
- The side garage door is not in a reasonable state of repair and does not meet the repairing standard.
- The summerhouse is not in a reasonable state of repair and does not meet the repairing standard.
- The Committee could not ascertain within the confines of the inspection whether the gas boiler was safe and in proper working order
- The Committee could not ascertain within the confines of the inspection whether the windows were in a reasonable state of repair and the property wind and watertight.

Reasons for the decision

22. The Committee determined the application having regard to the terms of the application, the findings of their inspection and the submissions from the Tenant.
23. 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.
24. The Committee found the Tenant to be a credible witness. The Committee accepted that the Tenant was experiencing problems with drafts in the property albeit the Committee had not witnessed same during the confines of the inspection. The Committee did note that the seals around the windows in the property were aged and it was clear that steps had been taken by the occupants to prevent drafts, for example by applying sellotape around the edge. No evidence had been presented by the Landlord to counter the Tenant's position. The Committee could not therefore be satisfied that the property was wind and watertight. It concluded that the issues complained of by the Tenant in respect of the windows required attention. The Committee noted the Tenant's submission that the Landlord had previously instructed an inspection of the windows and the indication had

been that upgrading works were required but not instructed as the costs were prohibitive. This gave further weight to the Tenant's position.

25. It was also of serious concern to the Committee that two electrical sockets in the living room had been marked unsafe in August 2015 however no work had been instructed by the Landlord to remedy the issue. The Committee noted the Landlord's intentions to carry out further inspections of the electrical wiring however as yet nothing had been done. It was clear from the evidence that the electrical wiring was not in a reasonable state of repair and required immediate attention by the Landlord. The Committee also accepted the Tenant's submission that no gas safety certificate had been produced by the Landlord. Whilst the Committee was conscious that the inefficiency of a boiler would not necessarily render it incompliant with the repairing standard, in the absence of a gas safety certificate the Committee could not satisfy itself that the installations for the provision of gas were in a reasonable state of repair and proper working order.
26. The Committee found further issues of disrepair throughout the house. The door to the oven had been removed in October 2015 and was not capable of use, nor was the main gas burner on the cooker hob. There was water staining and damage to the plaster to the kitchen ceiling which was a result of a leaking shower screen upstairs. Both toilets in the property had broken seats and the surround to the sink in the upstairs bedroom was unsteady and appeared to the Committee to be unfit for purpose. It was therefore clear to the Committee that internally the property was not in a reasonable state of repair and therefore did not meet the repairing standard.
27. Externally the Committee found further issues of concern. In both the front and back gardens, concrete copings on the walls were loose and capable of being dislodged which posed a clear risk of injury. The gate to the front garden did not close and the metal hand rail had corroded. In the back garden the roof of the summerhouse was leaking and the side door to the garage had warped due to water damage rendering it impossible to open. It was clear therefore that these external items required repair and that amounted to a breach of the repairing standard.
28. The Committee noted the Tenant had considered in his application that the landlord had also failed to meet the repairing standard in that there were furnishings provided under the tenancy that were not capable of being used safely for the purpose for which they are designed. However the Committee found no evidence of this in the course of its investigations.
29. 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".
30. 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

31. 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.
32. In respect of section 13(1)(c) 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 installations for the supply of gas and electricity were not in a reasonable state of repair nor in proper working order.
33. The decision of the Committee was unanimous.

Right of Appeal

34. 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

35. 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.

Ruth O'Hare

Signed

..... Date 20 June 2016

Ruth O'Hare
Chairperson



Case Reference Number: PRHP/RP/16/0040

Schedule of Photographs in respect of Statement of Decision by the Private Rented Housing Committee dated 20 June 2016



Front view of house



Summerhouse



Garage side door



Walls in back garden



External view of back of house



Shower screen attached to bath



Sink in upstairs bathroom



Fuse box



Socket in living room



Socket in living room



Downstairs toilet



Upstairs bedroom



Upstairs bedroom



Window in upstairs bedroom



Kitchen window



Boiler



Boiler



Kitchen ceiling



Oven