



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re: Subjects within the land edged red on the Title Plan being the flat situated top floor, left of the Tenement 55 BROOMLANDS STREET, PAISLEY PA1 2NQ; Together with the rights specified in the Deed of Declaration of Conditions in entry 2 of the Burdens Section. on the said plan of the block 18 REID STREET and 26 to 30 (even numbers inclusive) all as more particularly described in Land Certificate Title number REN 1591 (hereinafter referred to as “the house”)

PRHP Reference: PRHP/RP/16/0050

The Parties:

Miss Liene Visokiha, Flat 3/1, 55 Broomlands Road, Paisley, PA1 2 NQ (“the tenant”)

Robert and Joy Saunderson, c/o Castle Residential Scotland Limited, 63 Causeyside Street, Paisley, PA1 1YT (“the landlord”)

Notice to Robert and Joy Saunderson (“the landlord”)

Whereas in terms of its decision of 29th 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 the house meets the repairing standard in that:

the house is wind and watertight and in all other respects reasonably fit for human habitation.

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:

- (i) **To carry out such repairs or replacements as are required to ensure that the roof of the house is wind and watertight;**
- (ii) **To carry out such repairs or replacements to eradicate all staining and water damage and mould growth on all affected walls and to the ceiling of the bedroom;**
- (iii) **To carry out all ancillary works necessitated by the above works to and make good all decoration.**

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

Right of Appeal

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.

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 determined.

IN WITNESS WHEREOF these presents typewritten on this are signed by Simone Sweeney, Chairperson of the Private Rented Housing Committee, at Glasgow, on 29th day of April, Two Thousand and Sixteen in the presence of the undernoted witness:

S Sweeney

..... Chairperson



..... Witness

Advocate, Faculty of Advocates, Parliament House, Edinburgh



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

In connection with

Property at Flat 3/1, 55 Broomlands Road, Paisley, PA1 2 NQ ("the property")

Miss Liene Visokiha, Flat 3/1, 55 Broomlands Road, Paisley, PA1 2 NQ ("the tenant")

Robert and Joy Saunderson, c/o Castle Residential Scotland Limited, 63 Causeyside Street, Paisley, PA1 1YT ("the landlord")

Reference number: PRHP/RP/16/0050

Decision

Having made such enquiries as is fit for the purposes 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 and taking into account the evidence led from the tenant and the landlord at the hearing and the documentation submitted to the Private Rented Housing Panel ("PRHP") by the parties, the Private Rented Housing Committee ("the committee") determine that there has been a failure on the part of the landlord to comply with the duty imposed by Section 14 (1) (b) of the Act.

Relevant Statutory Provisions

Section 13: The repairing standard

(1) A house meets the repairing standard if—

- (a) the house is wind and water tight and in all other respects reasonably fit for human habitation,
- (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,
- (c) 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,
- (d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order,

(e) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed, and

(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Section 14: Landlord's duty to repair and maintain

(1) The landlord in a tenancy must ensure that the house meets the repairing standard—

(a) at the start of the tenancy, and

(b) at all times during the tenancy.

Background

1. By application dated 10th February 2016 ("the application") the tenant applied to PRHP seeking a determination of whether or not the landlord had failed to comply with the duties imposed by Section 14 (1) (b) of the Act.
2. In the application the tenant stated that the landlord had failed to comply with section 13 (1) (a) of the Act ("the repairing standard").
3. In the application, at section 8, the tenant specified how she considered the landlord to have failed to meet the repairing standard:

"The landlord was made aware that the bedroom ceiling had a leak at the beginning of 2015 (prior to moving in). This was temporarily fixed and I was told this would be taken into care of. In November/December the leak had gotten better, the agency refuses temporary fixes. No work has been done. There is water coming through daily, mould has developed. "

4. At section 9 of the application, the tenant specified the areas of the property where she considered work to be done, as:

"The roof needs fixing. The wet walls and ceiling needs fixing and then refurbishment (paint, new wallpaper). The room is not safe for use."

5. In support of the application, the tenant submitted copy tenancy agreement together with black and white photographs and emails dated, 9th December 2015, 31st January, 3rd, 7th, 11th, 12th and 22nd February 2016 between herself and the landlord's letting agents, Castle residential ("the letting agents"). The title deeds of the property were made available to the committee. The title identified the owner of the property as Robert Francis Barkley Saunderson and Joyce Mary Jean Saunderson.

6. By minute, dated 11th February 2016, a convenor of the PRHP, with delegated powers under section 96 of the Act, referred the application to a Private Rented Housing Committee, in terms of Section 23 (1) of the Act.
7. An inspection of the property and a hearing before the committee were assigned for 22nd April 2016. The committee comprised the following members:
 - (i) Miss Simone Sweeney, Legal member and;
 - (ii) Mr Andrew Taylor, Surveyor member.
8. By email of 31st March 2016, the tenant intimated to the PRHP that her intention was to vacate the tenancy in the longer term. She provided an assurance that she would be present at the committee's inspection on 22nd April although she would not be present at the hearing.
9. An inspection of the property took place at 10am on 22nd April 2016. The landlord was absent. There was no representative from the letting agents. In attendance was the tenant only.
10. Following the inspection, a hearing of evidence took place at Wellington House, 134-136 Wellington Street, Glasgow, G2 2XL. Neither party nor any representative on their behalf appeared at the hearing. The committee considered all the evidence before them and made its determination.

Summary of the issues

11. The issues to be determined are: whether the property meets the repairing standard set out at section 13 (1) (a) of the Act in terms of
 - (i) 13 (1) (a): the alleged leak at the bedroom ceiling, that water is reported to be coming through daily and that mould had developed;
 - (ii) and whether the landlord has complied with the duty imposed by Section 14 (1) (b).

Findings in fact

12. The committee make the following findings in fact:

13. That the tenancy agreement between the parties for the property is dated 6th February 2015. The lease is a short assured tenancy in terms of the Housing (Scotland) Act 1988. The provisions of Chapter 4 of the Act apply.
14. That the landlords are Robert Francis Barkley Saunderson and Joyce Mary Jean Saunderson.
15. That Castle Residential is the letting agent for the property and acts on behalf of the landlords.
16. That the tenant sent an email to the letting agent on 9th December 2015.
17. That the email stated:

"The leak above the bedroom needs to be permanently fixed. Wind and rain is constantly getting through small holes making the room uninhabitable. It is not possible to heat the room nor use it due to constant water dripping down the ceiling. The issue has been known since I moved in, this was back in February 2015. Twice before the leaking has been temporary fixed and this is being refused a third time."

18. That the email from the tenant was acknowledged by the letting agent on the same date.
19. That the reply from the letting agent read:

"...As explained previously all these issues that you are experiencing have been reported to Ross and Liddell the factors and matters have been escalated but as I stated to you I cannot guarantee a quick fix on this problem sorry."
20. That by email of 9th December 2015 from the letting agent, the landlord reduced the monthly rent to £175 until the roof was fixed and this was acceptable to the tenant.
21. That there was no evidence before the committee that any repairs were taken by the landlord following intimation of the complaint of 9th December 2015.
22. That the tenant made further enquiries by email to the letting agent of 31st January 2016.
23. That this email read as follows:

"...I am currently washing all of my clothes as even the wardrobe is wet, the water is coming from all sides and mould has developed. The ceiling has brown stains and as previously mentioned grayish mould which suggests a health risk. I do not enter the room unless I have to or if I have to empty the buckets...This is

not acceptable any longer and I will seek legal advice, the landlord is risking people's health and doesn't seem to mind material damage to my belongings either."

24. That this email was received from the letting agent who replied on 3rd February 2016 stating that, *"I can only apologise for this Thomas has been speaking to the factors regularly regarding this."*
25. That the tenant sent emails to the letting agents on 7th February, 11th February and 22nd February 2016 requesting an update as no repairs had commenced.
26. That an email was sent to the letting agent from the pursuer on 7th March 2016 from the tenant. It stated the following:

"By now the ceiling is starting to come down and there is a big hole in the ceiling. Luckily it is currently not raining but as soon as it does the water keeps pouring down....Health and Safety was here, however, I haven't heard anything back from them either. This isn't an acceptable state."

27. That the tenant submitted an application to the PRHP on 10th February 2016.
28. That by March 2016 the landlord had failed to address the complaint raised by the tenant in December 2015.
29. That the committee find no evidence of the landlord having attempted to repair the bedroom ceiling of the property between December 2015 and March 2016.
30. That the tenant was present at the inspection.
31. That, on inspection, the property was found to be a 2 apartment top floor tenement flat.
32. That, on inspection, the bedroom was positioned at the rear of the property.
33. That, on inspection, there was evidence of water damage and mould growth on the bedroom ceiling.
34. That, on inspection, there were 3 plastic buckets positioned within the bedroom.
35. That, on inspection, there was water dripping from the ceiling into the plastic buckets.
36. That, on inspection, there was an obvious, sizeable hole in the ceiling of the bedroom.

37. That, on inspection, there was plaster coming away from the ceiling and the walls.
38. That, there was a strong smell of dampness within the property, stronger within the bedroom.
39. That, on inspection, there was evidence of water damage on each of the walls of the bedroom close to the ceiling and at the foot of the walls.
40. That, on inspection, there was condensation at the window of the bedroom.
41. That, the surveyor member of the committee attempted to open the windows of the bedroom, without success.
42. That the inability to open the windows created difficulties in ventilation of the bedroom.
43. That during the inspection the tenant advised that she was unable to sleep in the bedroom to due to the water ingress and that she had been sleeping in the living room since November 2015.
44. That, on inspection, there was a bed positioned within the centre of the bedroom covered with a plastic sheet.
45. That, on inspection, there was a small wardrobe within the bedroom but no other furniture, personal belongings or furnishings.
46. That, on inspection, there was bedding on the sofa in the lounge.
47. That, on inspection, there was clothing, furnishings and personal items within the living room.
48. That the committee is of the view that the tenant sleeps within the living room.
49. That the bedroom cannot be used for the purpose which was intended by the tenant.
50. That the committee finds a failure on the part of the landlord to meet the repairing standard of section 13 (1) (a) of the Act.
51. That, on inspection, there were hard wired smoke detectors fitted to the ceilings of the kitchen and the hallway.

Reasons for decision

52. Having inspected the property and found the ceiling of the bedroom to be badly damaged with water and having identified the hole in the ceiling, the extent of the black mould spores, the water staining on the walls and the ceiling, the water dripping into the buckets below and

having identified a notable smell of dampness throughout the property, strongest within the bedroom and being satisfied that tenant was unable to use the room and was forced to sleep within the living room, the committee has reached the view that the landlord has failed to meet the repairing standard of section 13 (1) (a) of the Act.

53. The committee identified that the window of the bedroom could not be opened which created difficulties in ventilating the bedroom. As this was not part of the tenant's application and there had been no prior notification of any complaint with the window to the landlord, the committee shall make no comment as to whether the bedroom window met the repairing standard of section 13 (1) (a). However for the landlord to be satisfied that he has met the repairing standard insofar as the bedroom window is concerned, he should ensure that all necessary repairs or replacement works have been carried out so that the window opens with ease to enable ventilation and cleaning to be achieved.
54. The committee observed hard wired smoke detectors fitted to the ceilings of the kitchen and hallway of the property. No tests were undertaken to identify if the smoke detector was in proper working order as this was not part of the tenant's application and there had been no prior notification of any complaint with the smoke detector to the landlord. Therefore the committee shall make no comment as to whether the smoke detector met the repairing standard of section 13 (1) (f).

Decision

55. The committee determined that the landlord has failed to comply with the duties imposed by sections 13 (1) (a) and 14 of the Act.
56. The committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24 (1). The Repairing Standard Enforcement Order has a time limit of 4 weeks from the date of service of the Order for the landlord to carry out works necessary to ensure that the property meets the repairing standard.
57. The decision of the committee was unanimous.

Right of Appeal

58. 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.
59. 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 determined.

S Sweeney

Chair

At Glasgow on 29th April 2016