



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP/RP/16/0056

Title Number: ANG36636

Re: The residential dwellinghouse at

**103 Strathmartine Road
3rd Floor Left
Dundee
DD3 7SD**

("the Property")

The Parties:-

Miss Kim Ewart

residing at the Property

("the Tenant")

**Mr Ben Prior and Mrs Sarah Prior
C/o Rockford Properties
50 Castle Street
Dundee
DD1 3AQ**

("the Landlords")

The Committee comprised:

**Mr Ron Handley – Chairperson
Ms Geraldine Wooley, Surveyor Member**

NOTICE TO THE LANDLORD

In terms of their decision dated 16 April 2016, the Private Rented Housing Committee ("the Committee") determined that the Landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006.

The Committee now requires the Landlords to carry out such works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard and that any damage caused by the carrying out of any work in terms of this Order is made good (including making good any damage to the decorations).

In particular the Committee requires the Landlords to inspect the roof to identify the source of water ingress and thereafter carryout such repairs as are necessary to ensure that the Property is wind and water tight.

The Private Rented Housing Committee orders 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.

In witness whereof this and the preceding page is subscribed by Ronald G Handley, Solicitor, Chairperson of the Committee at Dunbar on 16 April 2016 before this witness:-

Jane Handley

R G Handley

Witness

Chairperson

JANE HANDLEY

Name in full

LESLIE WAY, DUNBAR

Address of witness

EAST LOTHIAN EH42 1GP

COLLEGE MANAGER

Occupation



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

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The Committee comprised:

**Mr Ron Handley – Chairperson
Ms Geraldine Wooley, Surveyor Member**

The Committee’s Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords had complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the Property, and taking account of the evidence before it, unanimously determined that the Landlords had not complied with the duty imposed by Section 14(1)(b).

Background

1. The Tenant applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlords had failed to comply with the duties imposed by Section 14(1)(b) of the Act.
2. On 29 February 2016 the President of the PRHP referred the application to the Committee.

The Application

3. In her application the Tenant alleged that the Landlords had failed to comply with the duty to ensure that the Property met the Repairing Standard (as defined in the Act). It was submitted that:
 - the Landlords had failed to ensure that the Property was wind and water tight and, in all other respects, reasonably fit for human habitation;
 - the structure and exterior of the Property was not in a reasonable state of repair and not in proper working order.
4. In particular it was submitted that the roof leaked and there was water ingress in both bedrooms which had caused severe damp and mould on the walls.

The Evidence

5. The Committee had before it a bundle of documents which included Land Register documents, a copy of the Tenancy Agreement between the Tenant and the Landlords and a copy of the Application Form. The Committee took account of these documents.

The Inspection

6. The Committee inspected the Property at 12:15 hrs on 7 April 2016. The Tenant was present throughout the inspection. The Landlords did not attend the inspection but were represented by Mr James Robertson (Rockford Properties).
7. At the conclusion of the Inspection the Tenant and Mr Robertson advised that they would not be attending the Hearing.

The Hearing

8. A Hearing was arranged to take place after the inspection at 14.15 hrs in Kirkton Community Centre, Derwent Avenue, Dundee, DD3 0AX. There was no attendance by the Tenant or Mr Robertson (on behalf of the

Landlords). No other persons attended the Hearing and consequently the Hearing did not proceed.

Summary of the issues

9. The issue to be determined by the Committee was whether the Landlords had complied with the requirements of the Act to ensure that the Property met the Repairing Standard.

Findings

10. The Committee found the following facts to be established:
 - The Property is a top storey flat (3rd floor left) located in a block of tenement flats at 103 Strathmartine Road, Dundee DD3 7SD.
 - On or around 17 April 2015 the Tenant and the Landlords entered into a Tenancy Agreement that related to the Property.
 - The Property has recently been redecorated.
 - There is water ingress in the ceiling of the front facing bedroom.
 - The Property is not wind and watertight and the roof requires to be repaired or replaced.
 - The Property does not meet the Repairing Standard.

Reasons for the Decision

11. The Committee were unable to gain access to the roof of the Property and consequently were unable to fully inspect it. The Committee noted that at the time of the inspection, repairs were being carried out to the roof of the flat immediately adjacent to the Property.
12. In the course of the inspection Mr Robertson advised that repairs had been carried out to the roof of the Property and that the Property had recently been redecorated.
13. The Tenant accepted that the Property had indeed been redecorated and advised the Committee that since the redecoration, there had been further water ingress in the front facing bedroom. She drew the attention of the Committee to areas of dampness in the ceiling and wall in that bedroom. The Committee accepted that there was indeed evidence of recent dampness in the front facing bedroom. It was clear to the Committee that there was still water ingress in the front facing bedroom
14. Although the Committee had no reason to doubt that prior to the redecoration, there had been water ingress in the rear facing bedroom, there was no recent evidence of dampness in that room. Given that there was no evidence of water penetration since the redecoration, it is

possible that the repairs referred to by Mr Robertson have remedied the faults in the roof above that room. However, we strongly recommend that the whole roof is inspected and repaired to ensure that problems do not reoccur.

15. The Committee concluded that the Property was not wind and water tight and did not meet the Repairing Standard. Consequently the Committee proceeded to make a Repairing Standard Enforcement Order.

Decision

16. The Committee determined that the Landlords had failed to comply with the duty imposed by section 14(1) (b) of the Act.
17. The decision of the Committee was unanimous.

Right of Appeal

18. A Landlord(s) or Tenant(s) aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63 of the Act

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. 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.

R G Handley

Signed Date 16 April 2016
Chairperson