



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/16/0075

Re: Property at Flat 6, 71 Kemnay Gardens, Dundee, DD4 7TR ("the Property")

Title No: ANG21209

The Parties:-

THOMAS RICHARDSON and KAREN BOYD residing at 23 Pitcairn Park, Leuchars, St Andrews, KY16 08A ("the Landlords")

SHERYL INSTON residing at Flat 6, 71 Kemnay Gardens, Dundee, DD4 7TR ("the Tenant")

NOTICE TO THOMAS RICHARDSON and KARIN BOYD ("the Landlord")

Whereas in terms of their decision dated 6 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 the property is:-

- (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) The installations in the Property 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 Landlords under the tenancy are in a reasonable state of repair and in proper working order;
- (d) Any furnishings provided by the Landlords under the tenancy are capable of being used safely for the purpose for which they are designed;
- (e) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

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:-

- (a) Repair or replace all existing double glazed windows (including double glazing units) to ensure that they are wind and watertight and in proper working order.
- (b) Reinstate kitchen including wall, floor and sink units, associated worktops, plumbing, fittings, pointing etc. and leave in proper working order. Make good ventilation and flue holes in external wall.
- (c) Carry out such works as are necessary to eradicate the leak at the loose bath overflow outlet and leave in proper working order.
- (d) Carry out such works as are necessary to ensure that the living room pass door closes correctly and is in proper working order.
- (e) Carry out such works as are necessary to ensure that the flat entrance door is secure and windproof including replacing missing Yale lock and draught stripping; leave in proper working order.

- (f) Replace missing kitchen central heating radiator.
- (g) Provide and install smoke detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5839 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under Section 2 -Fire, Sub-section 2.11 Communication.
- (h) Supply and fit Caron Monoxide detector compliant with the Scottish Government Statutory Guidance for the provision of carbon monoxide alarms in private rented housing.
- (i) Carry out all making good and decoration works associated with the above repairs.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 3 months 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 page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 6/5/16 before this witness:-

Lindsay Johnston

____ witness

Ewan Miller

____ Chairman

Lindsay Johnston
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ



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

prhp Ref: PRHP/RP/16/0075

Re: Property at Flat 6, 71 Kemnay Gardens, Dundee, DD4 7TR ("the Property")

The Parties:-

SHERYL INSTON formerly residing at Flat 6, 71 Kemnay Gardens, Dundee, DD4 7TR ("the Tenant")

THOMAS RICHARDSON and KARIN BOYD residing at 23 Pitcairn Park, Leuchars, St Andrews, KY16 08A ("the Landlords")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords has complied with the duty imposed by Section 14 (1)(b) in relation to the Property concerned, determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 21 February 2016 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant stated that the Tenant considered that the Landlords had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlords had failed to ensure that:-
 - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
 - (b) The installations in the Property 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 Landlords under the tenancy are in a reasonable state of repair and in proper working order;
 - (d) Any furnishings provided by the Landlords under the tenancy are capable of being used safely for the purpose for which they are designed;
 - (e) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. By letter dated 17 March 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.

4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlords and the Tenant.
5. Following service of the Notice of Referral the Tenant made no further material representations to the Committee other than their original application. The Landlords made no written representations to the Committee.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member and Mr A Taylor, Surveyor Member) inspected the Property on the morning of 29 April 2016. The Tenant was not present, having vacated the Property. Miss Boyd of the Landlords was present during the inspection.
7. Following the inspection of the Property the Private Rented Housing Committee held a Hearing at Kirkton Community Centre, Dundee. Neither the Tenant nor the Landlords were present or represented.
8. The Committee noted from the Tenant's application form that the Tenant was complaining about the front door and windows at the Property, which were alleged to be draughty. The Tenant was alleging that there was no latch fitted on the front door nor a yale lock and also that the living room door was coming off its hinges. Various complaints were noted in relation to the kitchen. In relation to the bathroom, the Tenant complained that the overflow leaked. There was a complaint regarding lack of fire detection and also that the gas boiler was not in proper working order.
9. The Landlords had given no written submissions in advance of the inspection and was not present at the Hearing. However, during the course of the inspection the Landlord acknowledged that some works were required to the Property. The Landlords were replacing the kitchen and were intending to carry out works to the windows. The Landlords alleged that some of the repair issues arose as a result of actions of the Tenant herself and also that the Tenant had been difficult in providing access to the Landlords to allow them to remedy matters.

Summary of the issues

10. The issues to be determined were:-
 - (1) Whether the front door was in proper working order and met the repairing standard.
 - (2) Whether the living room door was in proper working order.
 - (3) Whether the windows at the Property met the repairing standard and were in proper working order.
 - (4) Whether there was sufficient fire and carbon monoxide detection within the Property.
 - (5) Whether the gas boiler and gas system generally was in proper working order and met the repairing standard.
 - (6) Whether the kitchen generally met the repairing standard.
 - (7) Whether the bath overflow was working properly and met the repairing standard.

Findings of fact

11. The Committee found the following facts to be established:-
 - (1) The front door did not meet the repairing standard.
 - (2) The windows did not meet the repairing standard.

- (3) The living room door did not meet the repairing standard.
- (4) There was insufficient fire and carbon monoxide detection within the Property and was a breach of the repairing standard.
- (5) There was a valid gas safety certificate.
- (6) The kitchen was in a state of disrepair/replacement and did not currently meet the repairing standard.
- (7) The Committee could not ascertain within the confines of the inspection whether the bath overflow met the repairing standard or not.
- (8) The Committee could not ascertain within the confines of the inspection whether the gas boiler was in proper working order.

Reasons for the decision

12. The Committee reached its decision based primarily on the evidence obtained during the course of the inspection. The Committee inspected the front door at the Property. The yale lock was missing and this would require to be replaced. The front door did close and lock properly but the seals around the door were in poor order and had come away in places. The draughtproofing would require to be repaired or replaced sufficient to meet the repairing standard. The Committee inspected the windows at the Property. Whilst these all opened and closed there were some quite large gaps between the frames and the window itself in places. Some seals had been installed but these were quite often in poor condition or had been removed. Accordingly the Committee was satisfied that the windows were not properly wind and watertight and would require attention. It was for the Landlords to determine whether or not they wished to repair or replace the windows but they would require to be made properly wind and watertight. One pane of glass in the upper floor of the flat was cracked and this did not meet the repairing standard and would require to be replaced. The Committee inspected the living room door. This was not coming off the hinges as the Landlords had carried out repair works. However the door itself did not shut into the frame and according would require to be adjusted or replaced to ensure that it opened and closed correctly within the frame.

A current gas safety certificate was present confirming that the overall system was safe. In relation to the gas boiler itself the Landlords were unsure whether there may still be an issue with it following repair works they had had done. The Landlords would require to ensure that any outstanding works were attended to.

In relation to the kitchen the Landlords had accepted that some works were required to this and they were in the process of replacing it. Some parts of the kitchen had been removed and the radiator was missing. The Landlords provided evidence that works were ongoing. The Committee accepted this and simply noted that as at the date of the inspection the kitchen did not meet the repairing standard. The Landlords would require to install a proper kitchen compliant with the repairing standard.

The Committee inspected the bath at the Property. The Tenant alleged that the overflow was leaking. The Committee did note that the overflow pipe was in a very high position within the bath. It appeared to be a little loose also and the Landlord would require to ensure that this was connected properly.

The Committee noted that there was no hardwired smoke detection system within the Property. The Landlord had recently installed a couple of battery powered smoke alarms but these were inadequate and contrary to the relevant regulations. The Landlords would require to install a hardwired interlinked smoke detection system. A smoke detector was required in both the lower and upper halls as well as in the living room of the Property. A heat detector was required in the kitchen along with a carbon monoxide detector for the

boiler together with carbon monoxide detectors for any other gas appliance within the Property.

The Committee considered the period required for the Landlords to comply with the Repairing Standard Enforcement Order. There were a number of works to be done including, potentially, more significant works around the kitchen and windows. On that basis the Committee was satisfied that a period of 3 months to allow the Landlords to comply would be appropriate.

Attached to this decision is a photographic schedule for information purposes.

Decision

13. The Committee accordingly determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
14. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
15. The decision of the Committee was unanimous.

Right of Appeal

16. **A Landlords 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

17. 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.

Signed **Ewan Miller**
Chairperson

... Date..... 6/5/16



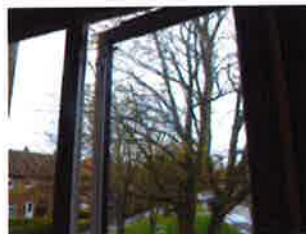
Fiat 6, 71 Kemnay Gardens, Dundee, DD4 7TR
PRHP/RP/16/0075
Schedule of Photographs - Inspection Date 29/04/2016
Weather – Overcast, dry



1. The Property



2 Living Room Window



3. Living Room Window



4. Living Room Window



5. Kitchen Window



6. Bathroom Window



7. Bedroom Window



8. Living Room Door



9. Kitchen Units



10. Kitchen Units



11. Missing Kitchen Units



12. Wall Ventilator
Kitchen



13. Hole For Former Flue Kitchen



14. Missing Radiator Kitchen



15. Flat Entrance Door



16. Flat Entrance Door



17. Loose Bath Waste



18. Battery Smoke Detector

Ewan Miller