



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/16/0087

Re: Property at 22 Orchard Street, Aberdeen, AB24 3DL

Title No: ABN52045

The Parties:-

MS JOLANTA JEZIOR, formerly 22 Orchard Street, Aberdeen, AB24 3DL (“the Tenant”)

MR VINCELY PAUL ANTHONYMUTHU, 19 Greenmore Gardens, Aberdeen, AB24 4JE (“the Landlord”)

NOTICE TO MR VINCELY PAUL ANTHONYMUTHU (the Landlord”)

Whereas in terms of their decision dated 18 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 and in particular that the Landlord has 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 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.
- d. The house 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 Landlords 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:-

1. To check the electrical wiring system to include in particular the electric immersion heater and repair as necessary to ensure the system is in proper working order and compliant with the repairing standard.
2. To complete the installation of sufficient smoke alarms and heat detectors that are mains wired and interlinked and otherwise comply with the requirements of the relevant fire legislation.
3. To produce a clear Electrical Installation Condition Report from a suitably qualified electrician confirming that electrical wiring system and the smoke alarms and heat detectors within the property are in proper working order and comply with the relevant regulations with no items marked as Category 1 or Category 2. The Landlord is to exhibit such clear Electrical Installation Condition Report to the Committee.
4. To replace the damaged tiling in the shower room to ensure that it is in a reasonable state of repair and fully compliant with the repairing standard.
5. To engage a reputable specialist to investigate the source of condensation in the shower room, bedroom and the kitchen of the property and to carry out any works recommended

by that specialist to ensure that the property is wind and watertight and reasonably fit for human habitation, and without prejudice to the foregoing generality, the Committee require the Landlord to have the specialist prepare a report on the source of the condensation and to exhibit this to the Committee.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 28 days 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 these presents typewritten on this and the preceding page are executed by Gillian Coumts Buchanan, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 18 May 2016 before this witness:-

J Lynch

witness

G Buchanan

Chairman

Ms Jennifer Lynch
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/16/0087

Re : Property at 22 Orchard Street, Aberdeen, AB24 3DL
Land Register Title No. ABN52045 ("the Property")

The Parties:-

Ms Jolanta Jezior, formerly 22 Orchard Street, Aberdeen, AB24 3DL (represented by her agent, Mr Hamish Mackenzie, Shelter Scotland, 36 Upperkirkgate, Aberdeen, AB10 1BA ("the Tenant"))

Mr Vincely Paul Anthonymuthu, 19 Greenmore Gardens, Aberdeen, AB24 4JE ("the Landlords")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14(1)(b) in relation to the house concerned, and taking account of the evidence led by the Landlord (the Tenant having previously sought to withdraw her application and the Committee having determined to continue the application by Minute of Continuation dated 4 May 2016), determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act. The committee therefore issues a Repairing Standard Enforcement Order.

Background

1. By application received on 26 February 2016 the Tenant 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 by the Tenant stated that the Tenant 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 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.
 - (b) Any fixtures, fitting and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.
 - (c) Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
 - (d) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. By letter dated 22 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.
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 Landlord and the Tenant.

5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than her original application received on 26 February 2016. The Landlord made no further written representations to the Committee.
6. The Private Rented Housing Committee (comprising Miss G. Buchanan, Chairperson and Legal Member, and Mr D. Godfrey, Surveyor Member) inspected the Property on the afternoon of 12 May 2016. Photographs were taken and a Schedule of Photographs is attached. The Landlord was present during the inspection. The Tenant had vacated the Property by the date of the inspection and was neither present nor represented. .
7. Following the inspection of the Property the Private Rented Housing Committee heard from the Landlord.
8. In terms of her application, the Tenant submitted as follows:-
 - (a) That the boiler in the Property broke down at the end of November 2015 and since then has been without adequate space heating.
 - (b) That work to repair a fault with the toilet in the Property had resulted in the floor tiles in the bathroom being broken causing a risk of injury.
 - (c) That there are large areas of damp and mould within the Property.
 - (d) That the windows are sealed shut.
 - (e) That the provision for detecting fires does not meet current standards.
9. The Landlord submitted as follows:-
 - (a) That there is no boiler in the Property, heating being supplied by electric wall heaters.
 - (b) That the bathroom tiles which were broken had been installed and damaged by the Tenant. The broken tiles do not match the other pre-existing tiles which were unbroken.
 - (c) That the mould in the bedroom of the Property was caused by a wardrobe being situated against the affected wall and the mould in the kitchen was caused by a plant being placed on top of the kitchen units.
 - (d) That the mould in the kitchen and bedroom was caused by condensation due to the Tenant not opening the windows of the Property.
 - (e) That the Property was in immaculate condition at the outset of the Tenant's lease.
 - (f) That the Tenant had failed to care for the Property properly and was a heavy smoker.
 - (g) That the Tenant's complaints were made to assist her in securing Council accommodation.

Summary of the issues

10. The issues to be determined are:-
 - (a) Whether there is a boiler in the Property, and if so, whether the boiler has broken down.
 - (b) Whether there is adequate space heating.
 - (c) Whether the bathroom tiles are broken and require replaced.

- (d) Whether there is damp and/or mould in the Property and, if so, the cause thereof.
- (e) Whether the windows are sealed shut.
- (f) Whether there is adequate provision for the detection and warning of fires.

Findings of fact

- 11. (a) That following the departure of the Tenant the Property is undergoing substantial refurbishment by the Landlord.
- (b) That the Landlord failed to comply with the Notice of Direction issued to him and dated 19 April 2016.
- (c) That there is no central heating boiler in the Property.
- (d) That heating is provided by electric wall heaters.
- (e) That a number of shower room floor tiles are broken and require to be replaced.
- (f) That there is mould on the internal surface of the external wall in the bedroom.
- (g) That there is mould on the party wall in the kitchen.
- (h) That there is mould on the upper walls and ceiling in the shower room
- (i) That the windows open and close properly.
- (j) That there is no heat detector in the kitchen.

Reasons for the decision

- 12. The Property is located on the second floor of the tenement of flats known as and forming 22 Orchard Street, Aberdeen, AB24 3DL. The Property comprises a small hallway leading to a living room, shower room, bedroom and kitchen.

At the time of the inspection it was dry and sunny.

At the inspection the Committee noted the Landlord to be undertaking substantial refurbishments to the Property following the departure of the Tenant. The Landlord stated that on completion of the refurbishments that he may sell the flat but may also re-let to another tenant. The Landlord stated that he anticipated the refurbishments being complete within around 2 weeks.

The Landlord stated that the Property had been in immaculate condition at the outset of the lease to the Tenant. He complained that the Tenant was a heavy smoker and failed to look after the Property which he illustrated by referring to the effect of smoke on the decoration of the Property and by reference to the condition of a kitchen socket which had been removed and the washing machine and fridge. He said that the Tenant had been seeking Council accommodation.

The Committee noted there to be no central heating boiler in the Property and that heating was provided by electric wall heaters.

The Committee checked the operation of the windows throughout the Property which all opened and closed correctly.

In the living room and hallway the Committee noted new smoke alarms to have been installed. The Landlord confirmed the smoke alarms had been hard wired. There was no

heat detector in the kitchen which had been fully stripped of fittings and electrical sockets awaiting refurbishment. The Landlord confirmed he intended to install a heat detector in the kitchen as part of these works.

In the shower room , the Committee noted several broken black floor tiles in front of and around the toilet. The remainder of the tiles in the bathroom were beige in colour and were intact. The Landlord stated that he did not install the black floor tiles nor did any contractor employed by him break them. The Committee was not satisfied, on the balance of probabilities, that the Tenant installed and broke the floor tiles.

In the bedroom, the Committee noted a significant amount of black mould on the internal surface of the external wall. The Landlord explained that a wardrobe had been located against the affected wall.

In the kitchen the Committee noted a significant amount of black mould on the internal surface of the party wall. The Landlord explained that that a plant had been placed on the units fixed to that wall.

The Landlord explained that due to language difficulties the Tenant did not understand advice given by him to open windows to allow for ventilation.

The Committee asked the Landlord about his failure to comply with the Notice of Direction issued to him and dated 19 April 2016. The Landlord stated he had not received the Notice of Direction. The Committee checked that the address of the Landlord noted on the Committee's file of papers was correct and he confirmed that it was.

The Committee considered how long was needed for the required works to be undertaken to ensure the Property complies with the repairing standards and considered a period of 28 days was reasonable and sufficient.

Decision

13. The Committee accordingly determined that the Landlord 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 Committee proceeded to serve notice upon Aberdeen City Council as required by section 24(6).
16. The decision of the Committee was unanimous.

Right of Appeal

17. **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

18. 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.

G Buchanan

Signed
Chairperson

Date..... 18 May 2016



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22 ORCHARD STREET, ABERDEEN AB24 3DL

12TH MAY 2016

Front elevation



Rear elevation



Lounge – General view



Condensation mould in Lounge cupboard



Hot water tank in Lounge cupboard



Lounge smoke detector



Condensation mould in Shower Room



Damaged floor tiles in Shower Room



Condensation mould in Bedroom



Condensation mould in Kitchen



David Godfrey MRICS

12th May 2016

