



**REPAIRING STANDARD ENFORCEMENT ORDER
Ordered by the Private Rented Housing Committee**

**RE: Property at 20F Fairbairn Street, Dundee DD3 7JJ
Being the eastmost house on the second floor of tenement 20A,B,C,D,E.F,G and
H Fairbairn Street more particularly described in feu disposition to the
Magistrates &c of Dundee, recorded in the General Register of Sasines for the
County of Angus 7 June 1934
(hereinafter referred to as “the House”)**

The Parties:

**Dundee City Council, Dundee House, 50 North Lindsay Street, Dundee DD1 1NB
(hereinafter referred to as “the Third Party”)**

**Property at 20F Fairbairn Street, Dundee DD3 7JJ (hereinafter referred to as
“the House”)**

**Muhammed Rizwan Khan, formerly of 20F Fairbairn Street, Dundee DD3 7JJ
(hereinafter referred to as “the Tenant”)**

**Muhammed Yusif Khan and Nayyar Yousuf, spouses, 49 Clepington Road,
Dundee DD4 7EL (hereinafter referred to as “the Landlord”)**

PRHP REFERENCE PRHP/ RT/16/0110

**WHEREAS in terms of their decision dated 16 June 2016 the 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:**

- “(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,...
(g) the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.”

The Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House 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 Committee requires the Landlord:

- 1 To repair or replace the existing windows and front door (including the front door frame) such that they are able to be opened and closed securely and are reasonably free from draughts.
- 2 To provide an up to date electrical installation condition report from a suitably qualified electrician confirming that the electrical installations within the House are in safe working order.
- 3 To remove the gas cooker present in the kitchen or to produce a Landlord’s Gas Safety Certificate issued by a Gas Safe registered engineer confirming that the gas cooker is in safe working order.
- 4 To relocate the carbon monoxide detector to a location which is in accordance with the advice of its manufacturer.

The Committee order that the works specified in this Order must be carried out and completed within two months from the date of service of this Notice.

A third party, 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 the decision.

Where such an appeal is made, the effect of the decision and 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 two preceding pages are signed by John Miller McHugh, Chairperson of the Private Rented Housing Committee at Edinburgh on the Sixteenth day of June Two Thousand and Sixteen in the presence of the undernoted witness:

John McHugh

D. Chairperson

Lesley Van Rooyen

Witness 

Witness Address 65 HATHANKES TERRACE, 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

Application by

**Dundee City Council, Dundee House, 50 North Lindsay Street, Dundee DD1 1NB
(hereinafter referred to as “the Third Party”)**

**Property at 20F Fairbairn Street, Dundee DD3 7JJ (hereinafter referred to as
“the House”)**

**Muhammed Rizwan Khan, formerly of 20F Fairbairn Street, Dundee DD3 7JJ
(hereinafter referred to as “the Tenant”)**

**Muhammed Yusif Khan and Nayyar Yousuf, spouses, 49 Clepington Road,
Dundee DD4 7EL (hereinafter referred to as “the Landlord”)**

PRHP REFERENCE PRHP/ RT/16/0110

DECISION

The Committee having made such enquiries as are 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 (hereinafter “the Act”) in relation to the House, and taking account of the written documentation submitted by the Landlord and Third Party and their representations at the hearing and inspection, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application dated 22 March 2016 (hereinafter referred to as “the Application”), the Third Party applied to the Private Rented Housing Panel (hereinafter “the PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and in particular that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

*“(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,...
(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire
(g) the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.”*

The Third Party complained of the following defects in the House: the absence of a landlord’s gas safety certificate; unsafe electrics; blocked rones; windows not working and being draughty; the front door and frame being broken, draughty and insecure; and an absence of smoke and carbon monoxide detectors.

By letter of 19 April 2016, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

The Committee comprised the following members:

John McHugh, Chairperson
Harry MacLean, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord, the Tenant and the Third Party.

The Committee inspected the House on 31 May 2016. The Landlord was represented by Sahrish Rizwan. The Third Party was represented by Mr Lindsay Watson.

Following the inspection, the Committee held a hearing at Caledonian House, Dundee. The Landlord’s representative did not attend, having confirmed at the inspection that it was not her intention to do so. The Third Party was again represented by Mr Watson.

Submissions at the Hearing

The Committee considered the parties' written representations and the information obtained at the inspection as well as the oral submissions on behalf of the Third Party.

It had been explained by Mrs Rizwan that she was the daughter of the Landlord. She had also been, until recently, along with her husband, Mohammed Rizwan Khan, the tenant of the House. She explained that they had moved out because of the condition of the House. The Landlord is said to be unable to enter the UK because of immigration reasons and so she and her husband are supervising repairs being funded by the Landlord.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

Findings in Fact

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

Photographs taken at the inspection by the Surveyor Member are attached.

The Committee made the following findings in fact:

The House is a third floor flat in a block of flats.

The Landlord and Tenant entered into a tenancy agreement in respect of the House.

The Landlord is the registered owner of the House.

The Tenant was in occupation of the House from approximately August 2014 until approximately May 2016.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Third Party notified the Landlord of the defects in the House which are now the subject of the Application by letter of 15 March 2016.

The inspection on 31 May 2016 revealed:

All windows were old and in need of refurbishment/replacement to render them draught proof.

Smoke detectors had been fitted in the hall and living room and a heat detector.

A carbon monoxide alarm was present in the kitchen immediately adjacent to the boiler.

A gas safety certificate in respect of the boiler was produced.

A gas cooker is present in respect of which a warning notice has been issued indicating that it is unsafe.

The front door surround is in poor condition making it difficult for the door to close as intended.

Reasons for the Decision

Windows

The Landlord's representative reported that all windows were draughty. She also reported that the living room window is hard to open. The Landlord intends to replace all windows and doors with new double glazed units.

Fire Detection

New smoke alarms have been installed in the hall and living room. A new heat detector has been installed in the kitchen. A Minor Electrical Works Installation Certificate has been produced in respect of this work.

Carbon Monoxide Detection

A carbon monoxide detector has been installed in the kitchen. It is inappropriately sited immediately adjacent to the boiler and needs to be moved to a different location to allow it to function as intended. Guidance should be taken from the manufacturer of the detector as to the appropriate location.

Gas Safety

A Landlord's Gas Safety Certificate dated 1 April 2016 was produced at the inspection. It deals only with the gas boiler in the kitchen. A gas cooker is present in the kitchen. Mr Watson produced a copy of a notice indicating that the cooker was unsafe to use. Mrs Rizwan advises that the gas cooker is to be removed and replaced.

Electrical

An Electrical Installation Condition Report was commissioned by the landlord and a copy provided to us by Mrs Rizwan at the inspection. It noted the condition of the electrical systems as unsatisfactory. A new consumer unit has since been installed and a Minor Electrical Works Installation Certificate has been produced in respect of this work. This does not address all of the matters raised in the EICR and it would appear that further electrical upgrading work would be required before the systems could be regarded as satisfactory.

Front Door

The front door surround is loose and Mrs Rizwan reported that the door is difficult to close. She reported that the Landlord intends to replace the front door and surround.

Rones

We did not inspect the rones as Mr Watson advised that the Council would attend to the necessary repairs (as several of the flats in the block are occupied by Council tenants).

Observations

Floor coverings were loose or absent and floor boards in need of attention. These matters were not covered by the application but if the property is to be re-let, it would be advisable for these matters to be addressed as, otherwise, a second application to the PRHP may result.

The Repairing Standard

The Committee consider that the defects concerning the windows, the carbon monoxide detector, the absence of a safety certificate for the gas cooker, the electrical system and the front door constitute breaches of the repairing standard.

Repairing Standard Enforcement Order

Having decided to make a Repairing Standard Enforcement Order, the Committee considered the length of time which should be provided for compliance.

The Committee elected to impose a period of two months having regard to the nature of the defects identified, the fact that the property is unoccupied and the time likely to be required to carry out remedial works.

Decision

The Committee, considering the terms of section 13(3) of the Act, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(2) of the Act.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord, third party or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord, Third Party or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

John McHugh

John M McHugh
Chairperson

Date: 16 June 2016











