



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Reference Number:- PRHP/RT/16/0221

Re: Property at Flat ½, 431 Victoria Road, Glasgow, G42 8RW all as more particularly described in and registered in Land Certificate GLA213840 (hereinafter referred to as “the property”).

The Parties:-

Mr. Gabriel Ostachi (“the Tenant”)

Mr. John Dundas, Glasgow City Council, DRS Housing and Regeneration Services, 3rd Floor Samaritan House, 79 Coplaw Street, Govanhill, Glasgow, G42 7JG (“the Third Party”)

Mrs. Farzana Ali, 18 Larch Road, Glasgow, G41 5DA (“the Landlord”)

NOTICE TO

Mrs. Farzana Ali, 18 Larch Road, Glasgow, G41 5DA (“the Landlord”)

Whereas in terms of their decision dated 9 august 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 the Landlord has failed to ensure that: the house is wind and watertight and in all other respects fit for human habitation, 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, the fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order, the house has satisfactory provision for detecting fires and for giving warning in the event of fire or of suspected fire and the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

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) To repair or replace the windows to the front of the property to ensure that the property is wind and watertight and to ensure that the windows are in proper working order.
- (b) To repair or replace the gas boiler and to produce a report by a suitably qualified Gas Safe registered engineer to address the state of repair and working order of all gas appliances within the property, including the gas boiler, and to carry out all works identified as required within the said report and, once all of the said necessary works have been carried out, to produce a further report by a suitably qualified and registered Gas Safe engineer confirming that said works have been carried out.
- (c) To produce a Gas Safety Certificate in respect of the property.
- (d) To produce an Energy Performance Certificate in respect of the property.
- (e) To repair or replace the washing machine and to produce a Portable Appliance Test (PAT) on all portable electrical appliances and equipment supplied by the Landlord and located within the property and to repair or replace any appliance supplied by the landlord and identified by the PAT as defective.
- (f) To obtain an Electrical Installation Condition Report (EICR) by a suitably qualified electrician and to carry out all works identified as recommended or required within the said report and, once all of the said necessary works have been carried out, to produce a further report by a suitably qualified and registered electrician confirming that said works have been carried out.
- (g) To install a heat detector in an appropriate location within the kitchen.
- (h) To install sufficient smoke detection devices within the property as required by current regulations and to ensure that all smoke detection devices are hard wired and interlinked.
- (a) To provide compliant and appropriately positioned carbon monoxide detector within the property which CO detector should be powered by a battery designed to operate for the working life of the detector which is usually between five and seven years. The detector should incorporate a warning device to alert the users when its working life is due to expire and should be replaced on or before the expiry date. A hard wired mains operated CO detector with fixed wiring (not plug in types) may be used as an alternative, provided they are fitted with a sensor failure warning device.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 21 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.

Please note that in terms of Section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with an 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 an RSEO has effect in relations to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this page and the preceding page are executed by Patricia Anne Pryce, Chairperson of the Private Rented Housing Committee at Glasgow 9 August 2016 before this witness:-

Signed **Patricia Pryce**

Date 9 August 2016

Patricia Anne Pryce, Chairperson

Nicholas Pryce

NICHOLAS PRYCE, WITNESS
55 BLYTHSWOOD ST
GLASGOW
ACCOUNTANT.



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

Reference Number: PRHP/RT/16/0221

**Re: Property at Flat1/2, 431 Victoria Road, Glasgow, G42 8RW ("the
Property ")**

The Parties:-

Mr Gabriel Ostachi ("the Tenant")

**Mr. John Dundas, Glasgow City Council, DRS Housing and Regeneration
Services, 3rd Floor, Samaritan House, 79 Coplaw Street, Govanhill, Glasgow,
G42 7JG ("the Third Party")**

Mrs. Farzana Ali, 18 Larch Road, Glasgow, G41 5DA ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purpose 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 account of the evidence submitted by the Tenant at the inspection and the application by the Third Party Tenant, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

The Committee consisted of:-

Patricia Anne Pryce	-	Chairperson
Kingsley Bruce	-	Surveyor Member

Background

- 1. By application comprising of all documents received on 17 June 2016, from the Third Party, the Third Party applied to the Private Rented**

- Housing Panel for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14 (1) (b) of the Act.
2. The application by the Third Party stated that the Third Party considered that the Landlord had failed to comply with her duty to ensure that the property meets the repairing standard and the Third Party brought forward the following breaches:-
- That the lounge windows have cracked panes; loose frames.
 - That the bedroom sash windows do not open; cords snapped; cracked panes.
 - That the washing machine in situ when tenancy commenced does not work.
 - That the central heating boiler works intermittently with an overflow to the sink.
 - That there is no hard wired smoke detector.
 - That there is no carbon monoxide monitor.
 - That the electrical supply meter/fuse boxes have loose wiring.
 - That there is a water stain on the ceiling of the electrical cupboard.

The Third Party considers that the Landlord is in breach of her duties under the Housing (Scotland) Act 2006 in relation to the repairing standard and in particular the Landlord has failed to ensure:-

- (i) The house is wind and watertight and in all other respects reasonably fit for human habitation.
 - (i) 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.
 - (ii) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
 - (iii) Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
 - (iv) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or of suspected fire.
 - (v) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. By Minute dated 22 June 2016 the Convener of the Private Rented Housing Panel intimated a decision to refer the application under Section 23(1) of the Act to a Private Rented Housing Committee.
4. On 30 June 2016, the Private Rented Housing Committee (“the Committee”) wrote to the Landlord, the Third Party and the Tenant to advise that the Committee intended to inspect the property on 8 August 2016 at 10.00 hours. The letter further confirmed that a Hearing had been arranged in relation to the application, which Hearing would be held in Wellington House, 134-136 Wellington Street, Glasgow, G2 2XL commencing at 13.30 hours. Finally, the letter confirmed that any written submissions had to be received by the Committee by 21 July 2016.

5. On 12 July 2016, the Committee issued a Notice of Direction in terms of Schedule 2 Paragraphs 2(1) and 3(1)(b) of the Housing (Scotland) Act 2006 and Regulation 14 of the Private rented Housing Panel (Applications and Determinations)(Scotland) Regulations 2007, which Notice required the Landlord to provide to the Committee an Electrical Installation Condition Report (EICR) by a suitably qualified and registered electrician and a Portable Appliance Test on all portable electrical appliances and equipment supplied by the Landlord and located within the property, a report by a suitably qualified Gas Safe registered engineer to address the state of repair and working order of all gas appliances within the property and an Energy Performance Certificate in respect of the property. The said documents were to be lodged with PRHP no later than midday on 29 July 2016.

The Inspection

6. On 8 August 2016, the Committee attended at the property for the purposes of inspection of the property. The Tenant and his wife were present at the property. The Landlord and the Third Party did not attend the inspection.

At the inspection on 8 August 2016, the Committee noted the following points:-

- (a) The property comprises a four apartment first floor flat located in a traditional tenement building constructed of blonde sandstone. The property is estimated to be in excess of one hundred years old.
- (b) The accommodation comprises all on one level an entrance hallway, a bathroom, three bedrooms, a kitchen and a living room.
- (c) In the living room, there were a number of cracked/broken window panes, held together with tape and the window cord was broken with poor mastic pointing. The Tenant confirmed that the windows had been in this state since he and his wife had moved into the property in December 2013 and that, despite reporting repairs issues to the Landlord, he had not heard from the Landlord in around two years.
- (d) In the front bedroom located next to the living room, there were broken sash cords in the windows.
- (e) In the south most bedroom located to the front of the property there were broken panes of glass in the windows.
- (f) The gas boiler was located in the kitchen and the casing had been removed from the boiler. The Tenant advised that the boiler had stopped functioning altogether. The Surveyor Member of the Committee attempted to switch on the boiler but it would not ignite. The Surveyor Member of the Committee ran the hot water tap in the kitchen sink but no hot water would come out. The Tenant confirmed

that there was no running hot water or central heating in the property due to the lack of function of the boiler.

- (g) There were two loose electrical sockets which were hanging off the wall located in the kitchen with exposed electrical cables/connections. The Tenant advised that these had been like that since he moved in to the property in 2013. He advised that he did not use these as they were not safe.
- (h) The washing machine which was provided by the Landlord to the Tenant was sitting in the south most bedroom as the machine no longer worked. The Tenant advised that he had reported this to the Landlord but that the Landlord had done nothing about this, resulting in the Tenant having to purchase his own washing machine.
- (i) The electrical wiring and fuse box were located in the hall cupboard. There were wires hanging loose and uncovered, the consumer unit housings were missing and electrical connections were unprotected and exposed. Some of the wires had simply been twisted around one another and appeared to present a potential danger to any occupier of the property.
- (j) There was water staining on the ceiling of the hall cupboard where the electrical wiring was located but this appeared to be historical in nature.
- (k) There were no smoke or heat detection devices within the property.
- (l) There was no carbon monoxide detection device located within the property.
- (m) There was staining on the roof of the rear bedroom which the Tenant advised had been caused by an escape of water from the neighbour above on July 2015.
- (n) The windows to the rear of the property had been replaced with UPVC windows.

The surveyor member of the Committee took several photographs which form the Schedule attached to this decision.

The Hearing

7. No one attended at the hearing.

Preliminary Issue

The Committee noted that it had not received a response from the Landlord in relation to the Notice of Direction it had issued.

The Committee noted that it had received a request to postpone the present hearing by email dated 28 July 2016 from the Landlord wherein the Landlord confirmed having received the Direction. In the email, the Landlord had claimed that she was aware of repairs being required in the property but that she had been unable to obtain access to the property and that she would be carrying out the repairs once the Tenant was evicted on 15 August 2016.

The Landlord claimed in her email that she had given money to the Tenant for repairs to be carried out but that the Tenant had not used this money for repairs.

However, the Committee noted that there were no smoke or heat detection devices within the property nor was there a carbon monoxide device located in the property. The Committee noted that the Tenant had resided in the property since December 2013 and that there had been ample time for the Landlord to rectify this.

Given the above together with the nature of the repairs which were outstanding in terms of the application, the Committee refused the Landlord's request for postponement of the hearing.

Furthermore, in light of all the foregoing, the Committee took the view that the Landlord has failed to comply with the Direction and the Committee recommends that the PRHP considers reporting the Landlord to Police Scotland in respect of this failure.

The Committee considered all of the evidence before it in terms of the application and what the Committee had noted in terms of its inspection of the property.

Given all of the circumstances, the Committee is satisfied that the property is not wind and watertight and in all other aspects reasonably fit for human habitation as there are a number of broken window panes to the front of the property, the window sash cords are broken and there is poor mastic pointing in the windows in the living room. The Committee is satisfied that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order as the gas boiler was simply not working at the inspection and there was no running hot water and that the electrical wiring in the hall cupboard is loose uncovered and wrongly twisted together. The Committee is satisfied that the any fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and in proper working order as the washing machine does not work. The Committee is satisfied that the house does not have satisfactory provision for detecting fires and for giving warning in the event of fire or of suspected fire as there are no smoke detection devices located within the property and there is no heat detection device located within the kitchen. The Committee is satisfied that the house does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health as there is no carbon monoxide detector located within the property. The Committee is satisfied that any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed as there were no such furnishings provided by the Landlord.

Decision

8. The Committee accordingly determines that the Landlord has 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 (1) of the Act.
9. The decision of the Committee was unanimous.
10. The Private Rented Housing Committee require the Landlord to carry out such works as are necessary to ensure that the property meets the Repairing Standard.
11. The Committee considered that it would be reasonable to allow a period of 21 days from the date of the RSEO to carry out these works.

Reasons for Decision

12. The Committee considers that the Landlord has had sufficient time to carry out the outstanding repairs.

The Committee considers that the Landlord has failed in her duty under Section 14(1)(b) of the Act and has not complied with the repairing standard in terms of Sections 13 (1) (a) of that Act.

Observations

The Committee was very concerned about the state of the electrical wiring within the hall cupboard in the property and that it may present an immediate danger to any occupant of the property. Furthermore, the Committee was even more concerned about the state of two of the electrical sockets located within the kitchen of the property which were hanging off the wall and presented a clear and immediate danger to any occupant of the property. The Committee was surprised that these sockets did not form part of the present application and it was a pity that the Third Party did not attend the hearing to explain why these sockets did not form part of the present application. The Third Party may wish to consider a more thorough inspection of such properties in advance of any future applications to the PRHP. Given the lack of any form of smoke, heat or carbon monoxide detector, the Committee is genuinely concerned for the safety of any occupant of the property together with the fact that the Landlord rented out this property in the knowledge that no such detectors were present within the property.

Right of Appeal

13. 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

- 14. 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.**

Patricia Pryce

Signed


Patricia Anne Pryce

Date 9 August 2016

SCHEDULE OF PHOTOGRAPHS:

FLAT 1/2, 431 VICTORIA ROAD, GLASGOW

8 AUGUST 2016





