



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP/RP/16/0235

Title Number: WLN34525

Re: The residential dwellinghouse at

**93 Barclay Way
Knightsridge
Livingston
EH54 8HA**

("the Property")

The Parties:-

Miss Abigail Burke

residing at the Property

("the Tenant")

**Ms Esther Dangata and Ms Yohanna Dangata
C/o Express Letting Agency
Peter House
Oxford Street
Manchester
M15 AN**

("the Landlords")

The Committee comprised:

**Mr Ron Handley – Chairperson
Mr Andrew Taylor, Surveyor Member**

NOTICE TO THE LANDLORD

In terms of their decision dated 25 September 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.

In particular the Committee requires the Landlords to:-

- engage a suitably qualified and Gas Safe registered heating engineer to carry out an inspection and then produce a written report on the gas fired heating and hot water supply installation including the boiler, all radiators, valves, programmers, thermostats and shower valves;
- ensure that the written report particularly focuses on pressure losses within the system, non-working radiators and all earthing and bonding;
- implement any recommendations contained in the written report and in so doing ensure that the entire system is safe and in proper working order;
- provide a valid CP12 Gas Safety Certificate on completion of the previously referred to works;
- repair or replace the double patio doors to the Living Room ensuring that both leaves open, are in proper working order, safe and secure, wind and watertight and that all double glazing units (within the patio doors) are in good condition.
- repair, rebed or renew steps to front and rear entrances so that they are stable, safe and in a reasonable state of repair;
- ease and adjust the internal doors so that they are capable of opening/closing and in proper working order;
- repair or replace the front entrance door and seals so that the door is capable of opening and closing, is safe, secure and is wind and watertight.
- make safe or remove the metal corner trim in the hall.
- carry out all making good and decoration associated with the completion of the foregoing works.

The Private Rented Housing Committee orders that the works specified in this Order must be carried out and completed within the period of 6 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 25 September 2016 before this witness:-

J HANDLEY

R. HANDLEY

Witness _____

_____ Chairperson

JANE HANDLEY

Name in full

23 LESLIE WAY

Address of witness

DUNBAR EH42 1GP



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

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C/o Express Letting Agency
Peter House
Oxford Street
Manchester
M1 5AN**

(“the Landlords”)

The Committee comprised:

**Mr Ron Handley – Chairperson
Mr Andrew Taylor, 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. On 30 June 2016 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 5 August 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;
 - the installations in the house (including drains, gutters and external pipes) were not in a reasonable state of repair and in proper working order;
 - the fixtures, fittings and appliances provided by the Landlords under the tenancy were not capable of being used safely for the purpose for which they were designed;
 - The Property did not have satisfactory provision for giving warning in the event of a fire.
4. In particular it was submitted that:
 - the boiler was not in full working order and was constantly losing pressure;
 - the electrics were faulty, cables passed through walls, live wires were exposed above the gas cooker hob, there were bare wires throughout the Property, the fuse board was outdated and no EICR had been issued;
 - the French doors did not work properly and were held closed with a screw. They also let in rain and snow;
 - the double glazing was full of condensation;
 - the kitchen door was missing and all doors throughout the Property did not close properly;

- the front door did not work and the rubber seal in it was defective;
- the heating radiator in the downstairs bedroom did not work, the boiler pipes required to be boxed in, the gas blow off pipes had not been installed properly and the gas meter had not been banded and earthed;
- there was sharp metal strapping in the main hallway which had caused injury.
- there were broken steps in the front and back garden and the garden shed was damaged.

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, a copy of the Application and various other documents (including invoices, photographs and e-mails). The Committee took account of these documents.

The Inspection

6. The Committee inspected the Property at 10:00 hrs on 19 September 2016. Ms Burke was present throughout the inspection as was Ms Esther Dangata.

The Hearing

7. A Hearing was arranged to take place after the inspection at 11:30 hrs in Howden Park Centre, Howden, Livingston, EH54 6AE. Ms Burke and Ms Esther Dangata both attended the Hearing. Also in attendance were Mr Wilson (who had carried out joinery works in the Property for the Landlords), Mrs Wilson and Mr Gordon (Ms Burke's partner).
8. The Chairperson reminded those present of the issues which were before the Committee. He explained that following Ms Burke's application, the President had decided that the application should be referred to the Committee. He also provided a brief explanation of the Committee's role and powers and reminded the parties that the Committee was restricted to considering the issues which had been raised in the application.
9. Ms Dangata advised the Committee that she considered that she had not received notification of the full list of the concerns as raised in the application.
10. The Committee referred Ms Dangata to an email of 5 July 2016 sent by Ms Burke to Ms Jessica Hall (and copied to Ms Yohanna Dangata). In

this email Ms Burke states that she was "once again sending an email of the repairs needing to be done for 93 Barclay Way".

11. The Committee noted that the PRHP had written to Ms Esther Yohanna Dangata on 5 August 2016. In that letter it was clearly stated that the application comprised a number of documents including the letters of notification of concerns sent to her by Ms Burke. A letter in the same terms had also been sent to Ms Yohanna Dangata and to Ms Jessica Hall, Express Letting Agency.
12. The Committee also noted that a number of emails sent by Ms Hall to Ms Burke made reference to some of the concerns detailed in the application. In all these circumstances the Committee were satisfied that the relevant concerns had been duly intimated to the Landlords.
13. There then followed a discussion of the various concerns detailed in the application. Ms Dangata advised that the new boiler had been installed around three months ago. Ms Burke explained that there still appeared to be a problem with the loss of pressure. The Committee advised that in the course of the inspection some water had been found on the pipes near to the boiler and that the low pressure could be attributable to water leaking from the central heating pipes. The Committee advised that it appeared that the pipe work around the boiler appeared to have been "boxed in".
14. Ms Burke advised that the radiator in the downstairs bedroom was not working properly and she had been told that there may have been a build-up of sludge which had caused the problem.
15. In regard to the electrics, Ms Burke accepted that the live wires around the cooker had been covered. However she considered that the fuse box was outdated and she advised that a cable had been put through the internal wall dividing the bedroom (on the ground floor) and the hall way cupboard.
16. Discussion then took place regarding the French doors, the internal doors and the front door.
17. In regard to the loose slabs at the front door of the Property, Ms Dangata suggested that the loose slab at the front door had been damaged deliberately.
18. Ms Dangata submitted that the shed had not formed part of the Tenancy Agreement although she had accepted that it had not been excluded in the Tenancy Agreement which was before the Committee.
19. Mr Wilson advised the Committee that he had spent more than 50 hours carrying out the joinery tasks within the Property on behalf of the Landlords. In spite of his efforts he had been frustrated that the occupants of the Property appeared to have made little efforts to support

him in his work and had removed some of his work and stored it in the attic.

Summary of the issues

20. 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

21. The Committee found the following facts to be established:
- The Property is a three bedroomed end terrace house located at 93 Barclay Way, Knightsridge, Livingston, EH54 8HA.
 - On or around 17 May 2016 the Tenant and the Landlords entered into a Tenancy Agreement that related to the Property.
 - In or around July 2016 the Landlords installed a new boiler within the Property.
 - The central heating system regularly loses pressure and the radiator in the downstairs bedroom is not in proper working order.
 - The patio doors in the living room do not open and close properly and they are not wind and watertight. The double glazing units (within the patio doors) are not in a reasonable state of repair or in proper working order.
 - Some of the steps at the front and rear entrance to the Property are loose and are not in a reasonable state of repair.
 - Some of the internal doors in the Property cannot be opened/closed properly. These doors are not in proper working order.
 - The seals in the front door are not in a reasonable state of repair and the door is not capable of opening and closing properly. The door is not wind and watertight.
 - The metal corner trim in the hall could cause injury.
 - The fuse box is dated but is in proper working order.
 - The Property has satisfactory provision for giving warning in the event of a fire.
 - The Property does not meet the Repairing Standard.

Reasons for the Decision

22. In the course of the inspection Ms Burke advised that the central system regularly lost pressure and had to be "topped up". The Committee were of the view that any such loss of pressure was likely to be caused by water leaking from the central heating pipes. The Committee accepted that the central heating system was not in proper working order.
23. The Committee had little reason to doubt that the radiator in the downstairs bedroom was not working properly. It is quite likely that sludge deposits were causing these difficulties and that the radiator requires to be flushed to remove any such debris.
24. It was clear from the inspection that the patio doors do not open and close as they should. The doors need to be repaired or replaced to ensure that they can be opened and closed, are in proper working order and safe and secure.
25. Similarly, in the course of the inspection it was noted that a number of the internal doors do not fully close and are ill fitting. They required to be repaired.
26. A number of slabs outside the front and rear entrances of the Property are loose/insecure. These loose slabs require to be repaired, re-bedded or renewed to ensure that they are stable, safe and in a reasonable state of repair.
27. The Committee noted that the seal in the front door was defective and that the door was not wind and watertight. Repairs are required to ensure that the front entrance door is capable of opening and closing, is safe, secure and is wind and watertight.
28. The metal corner trim in the hall could cause injury (particularly to a child) and requires to be made safe or removed.

Decision

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

Right of Appeal

31. 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

32. 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. HANDLEY

Signed Date 25 September 2016
Chairperson >



93 Barclay Way, Knightsridge, Livingston, EH54 8HA
PRHP/RP/16/0235
Schedule of Photographs - Inspection Date 19/9/2016
Weather – Bright and sunny



1. The property



2. New boiler



3. Pressure gauge and piping at boiler



4. Carbon Monoxide detector



5. Patio Door at lounge



6. Patio door at lounge.



7. External view patio door



8. Steps at patio door



9. Steps at patio door



10. Missing kitchen door



11. Badly fitting cupboard door



12. Bedroom Radiator



13. Hard wired smoke detector



14. Front entrance door



15. Metal corner trim- hall



16. Garden shed