



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP Ref: PRHP/RP/16/0237

Property at: 42/14 Gardner's Crescent, Edinburgh EH3 8DG

Title No: MID54784

The Parties

Duncan Beveridge, 42/14 Gardner's Crescent, Edinburgh EH3 8DG
("the tenant")

and

Gary Weston c/o Braemore Lettings, 92 Morningside Road, Edinburgh EH10 4BY
("the landlord")

NOTICE TO Gary Weston c/o Braemore Lettings, 92 Morningside Road, Edinburgh
EH10 4BY
("the landlord")

Committee Members

Paul Doyle
Robert Buchan

Chairperson
Surveyor Member

Whereas in terms of their decision dated 6 October 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 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, in terms of Section 13(1)(c) of the 2006 Act.
- (b) The fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order, in terms of Section 13(1)(d) of the 2006 Act.

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 to:-

- (1) Strip out the upper bathroom to identify the source of the problem causing the damage, thereafter repair and replace, carry out all necessary plumbing, electrical, refitting and decoration works to reinstate the bath/shower-room in this property.
- (2) To investigate the source of leakage from the boiler cupboard adjacent to the kitchen and repair or replace the boiler so that it can provide hot water to the en-suite shower and thereafter provide the PRHP with a Gas Safety Record from a suitably qualified, and Gas Safe registered heating engineer on the safety of the gas central heating boiler and all other gas appliances in the property, and, if necessary, carry out any further repairs or replacement to ensure that all gas appliances are safe to use, and are in proper working order.
- (3) Repair or replace the defective wardrobe doors in the master bedroom
- (4) Repair or replace the electric door providing access to the upper hallway
- (5) Instruct an Electrical Installation Condition Report (EICR) and Portable Appliance Test (PAT) on the entire electrical installation of the property and all electrical appliances and equipment supplied by the landlord to be carried out by a suitably qualified and registered SELECT or NICEIC electrical contractor. Carry out works to rectify any identified issues in these reports and provide the PRHP with an unqualified report from a suitably qualified and registered SELECT or NICEIC electrical contractor confirming the works are completed.

All within three months of the date of service of service of this order

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 are executed by Paul Doyle, solicitor, 24 Haddington Place, Edinburgh, chairperson of the Private Rented Housing Committee, at Edinburgh on 6 October 2016 before Joseph Doyle, 24 Haddington Place, Edinburgh.

Joseph Doyle

witness

Paul Doyle

chairman



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

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Property at: 42/14 Gardner's Crescent, Edinburgh EH3 8DG

Title No: MID54784

The Parties

Duncan Beveridge, 42/14 Gardner's Crescent, Edinburgh EH3 8DG
("the tenant")

and

Gary Weston c/o Braemore Lettings, 92 Morningside Road, Edinburgh EH10 4BY
("the landlord")

Decision

The Committee, having made such enquiries as it sought 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 in relation to the property concerned and taking account of all of the evidence available to the Committee, determined that the landlord has breached the duty imposed by Section 14(1)(b) of the 2006 Act.

Background

- 1 By application received on 30 June 2016, the tenant applied to the Private Rented Housing Panel to determine whether or not the landlord had failed to comply with the duties imposed by Section 14(1)(c) & (d) of the Housing (Scotland) Act 2006 ("the 2006 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, in terms of Section 13(1)(c) of the 2006 Act; and
 - (b) The fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order, in terms of Section 13(1)(d) of the 2006 Act.

- 3 By interlocutor dated 2 August 2016, a Convener of the Private Rented Housing Panel intimated a decision to refer the application under Section 23(1) of the 2006 Act to a Private Rented Housing Committee. The Committee was made up of:

Paul Doyle
Robert Buchan

Chairperson
Surveyor Member

- 4 The Private Rented Housing Panel served notice of referral under and in terms of Schedule 2 Paragraph 1 of the 2006 Act on the landlord and the tenant on 10 August 2016. Following service of referral, both parties made further written representations, which the Committee have taken into account.
- 5 The Committee inspected the property at 10am on 20 September 2016. The tenant was present and welcomed committee members into the property, which was vacant and unfurnished, because the tenant had moved out some days earlier. The landlord was not present, but was represented by his agent, Caroline Inglis.
- 6 Following inspection of the property, the Private Rented Housing Committee held a hearing at George House, George St, Edinburgh. Both the tenant and Ms Inglis, the landlord's agent, came to the hearing and answered questions put to them by committee members.
- 7 The tenant's position is that two out of three showers in the house do not work; that the wardrobe doors in the master bedroom have veneer peeling from them; that there are faults in the light in the kitchen and one bedroom, and that the internal electric doors do not work.
- 8 The landlord's position is that the defects complained of by the tenant exist, and will be fixed next week.

Summary of Issues

- 9 The issues to be determined are whether or not the house complies with the repairing standard set out at Sections 13 and 14 of the 2006 Act.

The Inspection

10. (a) The Master bedroom with en-suite bathroom, a second bedroom and a separate shower room with WC unit are found on the upper floor of this property. The floor of the shower room (on the upper floor) is tiled. At the time of inspection there was a hole in the floor. The timber floor and joists that could be seen are rotten and the WC is at an angle, clearly unusable. The tenant claims that whenever he used the shower water flowed into the flat below as evidenced by a letter from the owner of the flat below. As a result, two of the floor tiles (situated between the WC pedestal and the shower) lie loose above a hole in the floor. The tenant has not been able to use the shower because each time he does water flows into the flat below. The wooden flooring beneath the floor tiles is rotten.

(b) One wall of the master bedroom is lined with fitted wardrobes, with eight doors. Two of the wardrobe doors are damaged. On one door, the decorative veneer has been stripped away entirely. On the next door the decorative veneer is peeling off. The damage to the doors is unsightly, but it also leaves sharp edges and renders the doors dangerous to use.

(c) In the en-suite bathroom, off the master bedroom, the tenant tells us that shower cannot be used because there is no provision of hot water to that shower. On the lower floor of this flat, immediately below the en-suite bathroom & adjacent to the kitchen, there is a cupboard which houses the central heating boiler. That is the boiler which should provide hot water to the shower in the en-suite bathroom. High damp meter readings were obtained from the walls of the cupboard which houses the boiler. The walls of the boiler cupboard are damp. and appear to have been so for quite some time judging by the extent of staining on the walls.

(d) The kitchen/dining area is lit by halogen lights strung from ceiling height cables. The tenant claims that these lights regularly trip and there appears to be a fault which activates a circuit breaker in the consumer unit. lights regularly trip. There is a fault in the lights which activates a circuit breaker in the consumer unit each time the lights are used.

(e) The third bedroom in this property is entered from the hall on the lower level of the flat. That bedroom has a central ceiling light which does not work. Even though the central heating light is fitted with three bulbs, when switched on, the light flickered and died. There is clearly an electrical fault here.

(f) At the top of the internal stairs which provide access to the upper hallway within this property there is an electrical sliding door. There is a fault in the electric motor which operates the door so that the door is permanently open & cannot close. Three days before the committee inspected this property the tenant advised that there is a similar fault in another internal electric door. The door on the lower floor was fixed by tradesmen - who were unable to fix the electrical mechanism on the door providing access to the upper hallway because they have had to order a new part for that electric motor.

(g) Although the tenancy has not yet ended, the tenant has moved out of this property. The relationship between the landlord and tenant is at a low ebb and the tenant is reluctant to allow tradesmen to enter the property because he has cleaned it with a view to returning the keys and recovering his deposit. The tenant is fearful that the landlord will hold him liable for any damage or disruption caused by workmen.

(h) On 15 August 2016 the landlord's agents obtained a domestic electrical installation condition report signed off by an electrician named Paul Cogan and reviewed and confirmed by Alan Gray, registered qualified supervisor. The summary of the condition of the electrical installation contained in that report says that an overall assessment of the electrical installation is satisfactory. That is a surprising conclusion because the author of the report found that six items fell within category 3, which means that improvement is recommended to those six items; and 4 items fell within category 2, which means they are potentially dangerous. The committee members saw for themselves that the light in the bedroom is faulty.

(i) On 8 June 2016 the landlord obtained a gas safety certificate after Alan Blair of Lomond Maintenance Ltd inspected the boiler in the property.

(j) During the inspection the surveyor member took photographs of the property. A schedule of those photographs is attached hereto & forms part of this decision.

(k) On the facts as the committee find them to be, a Repairing Standard Enforcement Order is necessary. This committee will issue a Repairing Standard Enforcement Order requiring the landlord to

(1) Strip out the upper bathroom to identify the source of the problem causing the damage, thereafter repair and replace, carry out all necessary plumbing, electrical, refitting and decoration works to reinstate the bath/shower-room in this property.

(2) To investigate the source of leakage from the boiler cupboard adjacent to the kitchen and repair or replace the boiler so that it can provide hot water to the en-suite shower and thereafter provide the PRHP with a Gas Safety Record from a suitably qualified, and Gas Safe registered heating engineer on the safety of the gas central heating boiler and all other gas appliances in the property, and, if necessary, carry out any further repairs or replacement to ensure that all gas appliances are safe to use, and are in proper working order.

(3) Repair or replace the defective wardrobe doors in the master bedroom

(4) Repair or replace the electric door providing access to the upper hallway

(5) Instruct an Electrical Installation Condition Report (EICR) and Portable Appliance Test (PAT) on the entire electrical installation of the property and all electrical appliances and equipment supplied by the landlord to be carried out by a suitably qualified and registered SELECT or NICEIC electrical contractor. Carry out works to rectify any identified issues in these reports and provide the PRHP with an unqualified report from a suitably qualified and registered SELECT or NICEIC electrical contractor confirming the works are completed.

The committee requires the works to be carried out within three months of service of the Repairing Standard Enforcement Order.

Reasons for decision

11. (a) Committee members inspected this property at 10 am on 20 September 2016. It was a clear, dry, bright late summer morning. The landlord was not present but was represented by his agent Ms Inglis

(b) Committee members were taken to the upper floor of the property. There, they inspected the shower room. The striking feature of the shower was the two displaced ceramic floor tiles and the hole in the floor, with obvious damage to the joist beneath. The tenant explained that there been water leakage for some time, but the sight of

rotted chipboard flooring with an obviously compromised joist was, in itself, sufficient for the committee members to conclude that there has been water damage for a significant time and that the shower and toilet within the shower-room are not safe to use.

(c) From there, committee members entered the master bedroom of the property on the upper level. Committee members inspected the en-suite bathroom. From visual inspection there were no obvious defects in the en-suite bathroom. The tenant told committee members that the shower unit in the en-suite bathroom could not be used because there was no hot water. Committee members went downstairs and inspected the boiler in the boiler room adjacent to the kitchen. There, the surveyor member took damp meter readings, which showed excessive levels of moisture in the walls. The wall surrounding the boiler is covered in water stains. A comparatively recent gas safety check has been obtained by the landlord. Committee members own observations indicate that there is a significant problem here requiring further investigation.

(d) Committee members can only come to the conclusion that, because of the significant water staining and high damp meter readings; and because there is no hot water supply to the shower in the en-suite bathroom, the source of the problem that the appellant tenants complains about is a fault in the combi boiler, and/or the flue above.

(e) Committee members inspected the rack of halogen lights in the kitchen, the electricity consumer unit, and the light in the bedroom on the entry-level floor of this property. Committee members manipulated the wall switch operating the central light in the lower-level bedroom, only to watch the light bulbs flicker and die. The weight of reliable evidence indicates that there is a fault somewhere in the electrical installation of this property

(f) Committee members inspected the internal electric doors which are a feature of this property, and found that one of the doors simply doesn't work. The electric door providing access to the upper landing is operated by a wall switch similar to a light switch. Committee members manipulated that switch and nothing whatsoever happened. The tenant complains that two of the internal electric doors do not work. Committee members found that only one did not work. The landlord's representative volunteered that, three days prior to inspection, an electrician tried to fix two doors that did not work – and had been able to fix one door but required to order a part for the door providing access to the upper hallway, so that it had not been repaired in time for the committee's inspection

(g) Committee members returned to the master bedroom and inspected the fitted wardrobe that occupies one of the walls in the master bedroom. There are 8 doors on that fitted wardrobe. They all once had a chocolate brown veneer finish. On one door, that veneer has been removed entirely so that the MDF from which the door is made is fully visible. On the second door, the veneer is peeling away leaving an unsightly finish with jagged edges.

(h) After the inspection, a hearing took place within George House, George Street Edinburgh. Both the tenant and the landlord's representative attended. The hearing

was brief and focused because inspection clearly demonstrated that there was merit in the tenants complaint. The landlord's representative (sensibly and candidly) accepted that the defects complained of exist, but explained that the works to remedy the defects will be carried out in the next seven days and that there has been a delay because there has been wrangling between loss adjusters and insurance companies.

(i) What the committee saw at inspection and the landlord's candid admissions drive the committee to find that two of the three shower-rooms in the property do not work. The shower room in the upper floor has suffered from water leakage for so long that the flooring is compromised. The en-suite shower cannot be used because the boiler is defective and provides no hot water.

(j) Visual inspection makes it abundantly clear that veneer is peeling away from two of the eight wardrobe doors in the master bedroom. The wardrobe is one of the fixtures and fittings provided by the landlord. It is abundantly apparent from a visual inspection that they are not in a reasonable state of repair. The two bathrooms on the upper level form part of the installations in the house for the supply of water, gas and sanitation - and they are not in a reasonable state of repair nor are they in proper working order.

(k) The electrically operated door providing access to the upper hallway; the rack of lights in the kitchen; the light in the bedroom on the lower-level of this flat all have defects. The circuit breakers and the consumer unit appear to have protected this property from those faults. At the hearing, Ms Inglis provided the committee members with a copy of the EIC report and the gas safety record. An unusual feature of this case is the contradictory nature of the EIC record. Although the EIC report has a summary which says that the electrical installation is "*satisfactory*", it also records that four of the installations are Category 2 ("C2") items which are potentially life threatening. Scottish Government Statutory Guidance on Electrical Installations and Appliances in private rented property states clearly that "Any element of the electrical installations, fixtures, fittings or equipment which is classified in an EICR under code C1 (danger present) or C2 (potentially dangerous) must be rectified to comply with the repairing standard." Further "Where an item is classified as C2 this is a potentially dangerous situation and urgent remedial action is required. The weight of reliable evidence indicates that there is a fault in the electrical installation, and it is clearly not satisfactory.

(l) The committee can only come to the conclusion that the installations in the house for the supply of water, gas and electricity are not in a reasonable state of repair, nor are they in proper working order. The property cannot therefore meet the repairing standard set out in section 13(1)(c) of the 2006 act

(m) The weight of reliable evidence (and the candid approach taken by the landlord's agent) indicate the fixtures and fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair nor are they proper working order. The property cannot therefore meet the repairing standard set out in section 13(1)(d) of the 2006 act

Decision

12 The committee accordingly determined 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 ("RSEO") as required by Section 24 (1) of the Act.

13. The decision of the Committee was unanimous.

Right of Appeal

14. 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

15. 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.

Paul Doyle

Signed..
Chairperson



..... Date 6 October 2016

Photographs taken during the inspection of
42/14 Gardner's Crescent, Edinburgh EH3 8DG



Top floor flat entrance side



Rear of the building

Photographs taken during the inspection of
42/14 Gardner's Crescent, Edinburgh EH3 8DG



Shower-room floor



Dampness below boiler

Photographs taken during the inspection of
42/14 Gardner's Crescent, Edinburgh EH3 8DG



Wardrobe door



Bathroom