



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/DD1/189/11

Re : Property at 4/R 40 Union Street, Dundee, DD1 4BE ("the Property")

The Parties:-

JAMIE GREGORY, residing at 4/R 40 Union Street, Dundee, DD1 4BE ("the Tenant")

Ms MAIRI HANDY, 30A South Tay Street, Dundee DD1 1PD (represented by their agent Albion Let, 30A South Tay Street, Dundee, DD1 1PD) ("the Landlord")

NOTICE TO Ms MAIRI HANDY, 30A South Tay Street, Dundee DD1 1PD ("the Landlord")

Whereas in terms of their decision dated 30th May 2012, 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 the property is:-

(a) Wind & watertight, in terms of s13(1)(a) of the Housing (Scotland) Act 2006

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 carry out such works as are necessary to replace the windows throughout the property, so that the property becomes wind & watertight.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of three months 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 are executed by Paul Doyle, solicitor, 24 Haddington Place, Edinburgh, chairperson of the Private Rented Housing Committee at Edinburgh on 30th May 2012 before this witness:-

S Chitty

witness

P Doyle

chairman

Suzanne Chitty
Secretary
24 Haddington Place
Edinburgh



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

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The Parties:-

JAMIE GREGORY, residing at 4/R 40 Union Street, Dundee, DD1 4BE ("the Tenant")

Ms MAIRI HANDY, 30A South Tay Street, Dundee DD1 1PD (represented by their agent Albion Let, 30A South Tay Street, Dundee, DD1 1PD ("the Landlord"))

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 both the Landlord and the Tenants at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 7th November 2011 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 the property is wind & water tight in terms of s.13(1)(a) of the Act
3. By letter dated 16th January 2012 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 Tenants.
5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than their original application dated 7th

November 2011. The Landlord (by e-mail dated 2nd February 2012), made written representations to the Committee.

6. The Private Rented Housing Committee inspected the Property on the morning of 25th May 2012. The Tenant and the Landlord's agent were present during the inspection. The following members constituted the Committee

Paul Doyle, Legal Member
David Godfrey, Surveyor Member
John Wolstencroft, Housing Member

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Douglas Community Centre, Dundee, and heard from both the Tenant and the Landlord's agent.
8. The tenants submitted as follows:-

That the Windows in each of the three rooms of the property require to be replaced. It is the Tenant's position that there are cracked windowpanes, and that the metal frames of each of the Windows have corroded to such an extent that drafts come through each of the Windows constantly, so that the property is permanently cold.

9. The landlord's position is that in response to the tenant's request the windows in the property had been inspected and painted. The windows are properly maintained. The tenant is exaggerating the extent of repairs required to the Windows.

Summary of the issues

10. The issues to be determined are whether or not the properties window watertight in terms of section 13(1)(a) of the Act.

Findings of fact

11. The Committee finds the following facts to be established:-

(a) On 1 July 2011 the Landlord and Tenant signed a tenancy agreement & an assured tenancy of the property was created. The tenancy is managed by the Landlord's agent, Albion Let, 30A South Tay Street Dundee.

(b) The property is a three roomed top floor flat, with the living room and bedroom looking out over Union Street, Dundee, and the kitchen/dining room to the rear. Each of the three main rooms within the property have metal framed windows which are now of some age. When the Tenant first took entry to the property, on 1 July 2011, two of the windowpanes in the living room were cracked. By the date of inspection those two windowpanes had not been replaced.

(c) In or about October 2011 the Tenant complained to the Landlord's agents that significant drafts were entering the property through the (closed) windows, and the property was permanently cold. After reminding the Landlord's agents of his complaint, the Tenant applied to the Private

Rented Housing Panel, explaining that he was willing to investigate the prospect of resolution by mediation.

(d) In November 2011 the Landlord sent a maintenance contractor to inspect the windows (and other areas) within the property. On 23 November 2011 the Landlord's maintenance contractor fitted draft excluders to each of the windows serving the property, & applied two coats of gloss paint to the interior window frames. No works were carried out to the exterior of the windows, nor to the windowsills.

(e) By the date of inspection, rust stains had crept through the recent paintwork on the windows. The windows are tired and at the end of their life. The window sills have not been maintained and are now without the protection of a coat of paint. The window frames serving all three rooms are corroding. There are gaps between the window frames and the window surrounds in all three rooms. There are gaps between the windows and the window frames in all three rooms. The surrounds & the window sills in each of the three windows are in poor condition. There are two broken window panes in the living room window. Drafts blow through each of the windows. The heat generated within the property is lost through the windows. During rainstorms there is water ingress through each of the windows.

(f) The Landlord has tried to remedy the defects in each of the windows serving the property, but has been unable to do so. The draft excluders fitted six months prior to the date of inspection are now compromised and are insufficient to remedy the defects in the windows. The two coats of paint applied six months prior to the date of inspection has not halted the corrosion of the metal window frames, and cannot conceal the rust damage to the window frames.

(g) The windows throughout this property are at the end of their serviceable life, and require to be replaced. Because of the defects in the windows the property is not wind & watertight, and cannot comply with the requirements of section 13(1)(a) of the Act.

Reasons for the decision

12. (a) We inspected this property on the morning of the 25th May 2012. The Tenant was present but was not represented. Mr John Duthie, a property manager from Albion Let, was present as the Landlord's agent. The Tenant welcomed us into the property and allowed Committee members to inspect the windows in each of the three main rooms of the property.

(b) Our own observations made it abundantly clear that the windows in this property are at the end of their useful life. It was obvious to us that two of the windowpanes in the living room window are cracked. We could see that each of the windows had been recently painted, but that signs of corrosion (including rust staining) were now bubbling through the recent paint work.

(c) Inspection of each of the windows showed that the draft excluder recently placed on the windows had proved ineffective, and was now damaged and perished. We could see that although the interior of the windows had been treated with paint comparatively recently, no maintenance works have been carried to the exterior of the windows for some time. The window frames are

obviously corroding. There are gaps between each window frame and each surround. In each room there are gaps between the windows and the frames themselves. Each of the surrounds and window sills are in poor condition.

(d) After inspecting the property, a hearing took place at Douglas community centre, Dundee. Both the Tenant and Mr Duthie appeared, and both the Tenant and Mr Duthie willingly answered questions from Committee members. The Tenant told us that he has had problems from the windows of the property since the day he had moved in, and that as the winter months descended in 2011 the property was constantly cold & plagued by drafts coming from the windows. The Tenant told us that, during rainstorms, water came in through the gaps found in the window frames. The Tenant explained that the Landlord had tried to resolve the problems caused by the defects in the windows by instructing decorative repairs, but the repair work was not adequate to address the extent of the problems caused by the defects in the windows.

(e) Mr Duthie had limited knowledge of the history of this tenancy, but reference to the file of papers that he had confirmed that the Landlord had asked a maintenance contractor to inspect the windows and report to her, and then instructed the same contractor to paint the interior of the windows. No other (recent) works have been carried out on the windows. It is clear from the documentary evidence in this case that the Landlord has satisfactorily resolved other concerns the Tenant had about fixtures and fittings within the property.

(f) From our own observations we could see that the windows throughout the property were tired and at the end of their serviceable life. The defects in the windows were obvious to us from simple inspection. There are broken panes of glass in the window in the living room. Each of the three metal framed windows are corroding. In each of the Windows there are gaps between the window frame and surround. In each of the windows there are gaps between the windows & the frame. The surrounds & the window sills on each of the windows are in poor condition. The defects in the windows are such that the windows are neither wind nor watertight. The Landlord has tried to remedy the defects in the windows, but just six months after those works were carried out the works can clearly be seen to have been ineffective.

(g) The condition of the windows is such that the property is not wind & watertight. The property does not satisfy section 13(1)(a) of the Act & so fails to meet the repairing standard set out in the Act. We therefore make a Repairing Standard Enforcement Order requiring that the windows in the property are replaced within three months in order to make this property wind and watertight.

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 decision of the Committee was unanimous.

Right of Appeal

16. 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

17. 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.

P Doyle

Signed..... Date 30th May 2012
Chairperson

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4/R 40 Union Street, Dundee, DD1 4BE

25th May 2012

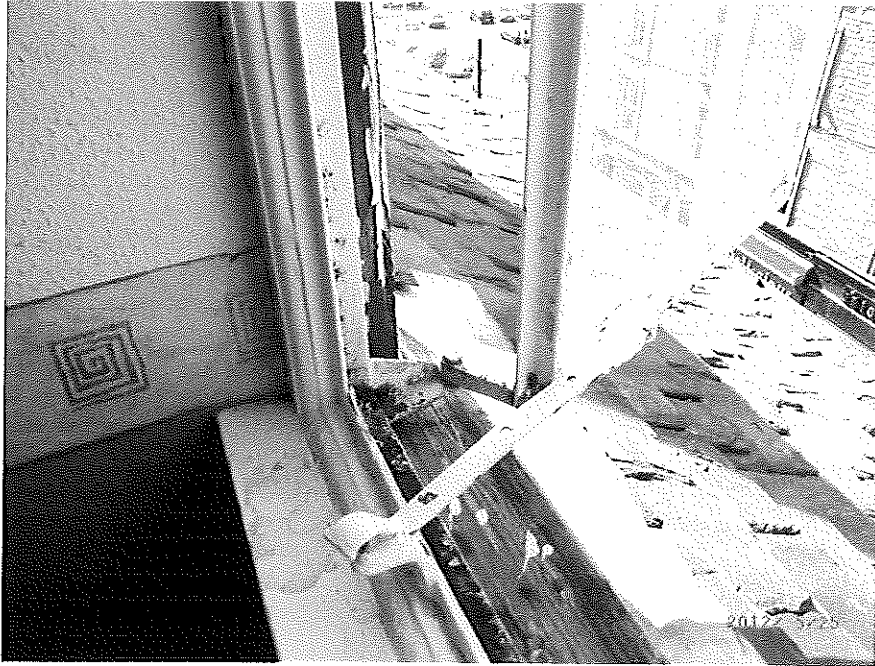
Front Elevation



Bedroom Window



Lounge Window



Kitchen Window

