



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/IV16/208/11

Re: Property at Flat 1, Forbes Buildings, Great North Road, Muir of Ord ("the Property")

Sasine Description: ALL and WHOLE Flat 1 Forbes Buildings (formerly Mackintosh Buildings), Great North Road, Muir of Ord being part and portion of ALL and WHOLE those subjects described in and disposed by Feu Charter to Alexander Mackenzie recorded in the Division of the General Register of Sasines for the County of Ross & Cromarty on 27 October 1927

The Parties:-

WILLIAM MARTIN FORBES residing at 49 Drumsittal Road, North Kessock, Rosshire, IV1 3JU ("the Landlord")

MR ALAN FORBES residing at Flat 1, Forbes Buildings, Great North Road, Muir of Ord (represented by his agent Ms Alison Macrury of Ross & Cromarty Citizens Advice Bureau) ("the Tenant")

NOTICE TO WILLIAM MARTIN FORBES ("the Landlord")

Whereas in terms of their decision dated 28 March 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) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (c) The installations in the Property 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;
- (d) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
- (e) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

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 carry out such works of repair or replacement as are necessary to allow all the windows within the Property to be capable of being opened and closed properly and also properly wind and watertight.
- (b) To carry out an overhaul of the downpipes, rhones and gutters within the larger building of which the Property formed part to ensure that these are in proper working order.
- (c) To properly affix the lounge storage heater to the wall.

- (d) To provide a clear Periodic Inspection Certificate by a suitably qualified electrician confirming that the electrical system within the Property is safe.
- (e) To carry out such works of repair or replacement to the door between the lounge and kitchen as are necessary to allow the said door to open and close properly
- (f) To install a mains wired interlinked smoke alarm detection system within the Property to the appropriate current regulations.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 10 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 these presents type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 28 March 2012 before this witness:-

L Johnston

_____ witness

E Miller

_____ Chairman

Lindsay Johnston
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ



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

prhp Ref: PRHP/IV16/208/11

Re: Property at Flat 1, Forbes Buildings, Great North Road, Muir of Ord
("the Property")

The Parties:-

MR ALAN FORBES residing at Flat 1, Forbes Buildings, Great North Road, Muir of Ord
(represented by his agent Ms Alison Macrury of Ross & Cromarty Citizens Advice
Bureau) ("the Tenant")

WILLIAM MARTIN FORBES residing at 49 Drumsittal Road, North Kessock, Rosshire,
IV1 3JU ("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 Tenant 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 14 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:-
 - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
 - (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
 - (c) The installations in the Property 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;
 - (d) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
 - (e) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. By letter dated 14 December 2011 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 Tenant.
5. Following service of the Notice of Referral the Tenant made no further written representations to the Committee other than their original application. The Landlord made no written representations to the Committee.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member; Mr A Anderson, Surveyor Member; Mrs L Robertson; Housing Member; accompanied by the Clerk, Mr Geoff Thomson) inspected the Property on the morning of 14 March 2012. The Tenant and his representative were present. The Landlord was not present.
7. Following the inspection of the Property, the Private Rented Housing Committee held a hearing at Dingwall Community Centre, Old Academy Buildings, Tulloch Street, Dingwall. The Landlord was not present nor represented. The Tenant and his representative were present.
8. The Tenant submitted that the Property did not meet the repairing standard, as per the terms of his written application to the Committee. His principal concerns were that a number of the windows were unable to be opened. There was a significant degree of rot in the window frames and this allowed water ingress and provided very poor thermal insulation. The property had been particularly cold over the last couple of winters. The Tenant was also concerned in relation to the downpipes and gutters at the Property, the hot water boiler, the electrical system within the Property and a lack of a proper fire detection system.
9. There were no submissions or representations from the Landlord available to be considered by the Committee at the Hearing.

Summary of the issues

10. The issues to be determined are:-
 - (a) Whether the windows at the Property were wind and watertight and otherwise met the repairing standard.
 - (b) Whether the downpipes and gutters at the Property were in proper working order and otherwise met the repairing standard.
 - (c) Whether the heating appliances within the Property were safe and also whether there was an adequate number of these.
 - (d) Whether the electrical system within the Property was adequate and met the repairing standard.
 - (e) Whether the hot water system within the Property was in proper working order and met the repairing standard.
 - (f) Whether the doors between the living room and kitchen and living room and hall met the repairing standard.
 - (g) Whether there was an adequate fire detection system installed within the Property, compliant with the relevant regulations.

Findings of fact

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

- The windows in the Property did not meet the repairing standard due to a variety of factors.
- The downpipes and gutters in the larger block of which the Property forms part required to be replaced or overhauled.
- Some work was required on the lounge heater but otherwise there was an adequacy of heating appliances within the Property.
- It was apparent to the Committee that elements of the electrical system within the Property were damaged or defective and therefore the system did not meet the requirements of the repairing standard and accordingly the Landlord would require to produce a clear periodic inspection certificate.
- The electrical connection with the hot water immersion boiler was inadequate and would require to be addressed as part of the works to produce a clear periodic inspection certificate as above
- The door between the living room and kitchen would require work in order for it to meet the repairing standard.
- There was not an adequate fire detection system compliant with the relevant regulations in place at the Property.

Reasons for the decision

12. The Committee based its decision primarily on the evidence obtained during the course of the inspection.

The Committee first of all inspected the windows throughout the Property. A good number of these had been painted shut and were unable to be opened and closed properly. On some of the windows, particularly on the front elevation, there was a significant degree of rot to the sills and frames and this meant that the windows were not properly wind and watertight. In relation to the kitchen window the rot along the lower frame was so extensive that there was now a clear gap between the bottom of the glass and the frame. The tilting windows at the rear of the Property were in slightly better condition but nonetheless were not capable of being opened and closed smoothly. Overall the Committee were of the view that the Landlord would require to carry out such works of repair and replacement as were necessary to allow all the windows to be opened and closed properly and to carry out such other works as were necessary to ensure that they were properly wind and watertight.

The Committee also carried out an external inspection of the downpipes and gutters at the Property. At the rear of the Property one of the downpipes had become disconnected from the gutter from which it was supposed to be attached. At the front of the Property there was evidence of vegetation growth in the gutter and the downpipe was split. It was apparent to the Committee that there had been some leaks arising as a result of this and accordingly there was required to be a general overhaul via repair or replacement of the downpipes and gutters on that part of the larger building that served the Property.

The Committee inspected the fixed storage heaters within the Property. The storage heater in the lounge was loose and would require to be affixed properly to the wall by the Landlord. The Tenant's primary complaint was that these storage heaters were an uneconomic and inefficient manner of heating the Property. Whilst the Committee accepted that this may be the case, nonetheless they were available for use and did appear to be in proper working order. The Tenant had the option of bringing in his own heating appliances should he so desire and accordingly the Committee were not prepared to take the view that there was a failure to meet the repairing standard on this point.

The Committee inspected the various electrical sockets in the Property. In relation to the socket behind the bed in the main bedroom, this was loose and was being pushed back into the wall. There was also evidence of scorch marks around a socket in the lounge. Exposed wiring could also be seen on the heated towel rail. Given the overall neglected condition of the Property, the Committee found it appropriate that the Landlord should provide a clear Periodic Inspection Certificate by a suitably qualified electrician confirming that the Property complied with the relevant regulations. The Tenant also highlighted an exposed wire within the electrical connection to the hot water immersion tank. This appeared to be unsafe to the Committee and would require to be addressed as part of the provision of a clear Periodic Inspection Certificate by the Landlord.

The Committee then inspected the living room doors. It was evident that the door between the living room and kitchen had swollen or was warped. It required a greater degree of force than was reasonable to close it properly. The Committee were satisfied that this required works of repair or replacement to ensure that it would open and close smoothly.

The Committee then inspected the fire detection system within the Property. During a recent visit, the Fire Service had provided temporary battery powered alarms. It was also evident that there had been an old fire alarm system throughout the Property and the larger building at some point in the past. The Tenant advised, however, that this was not working. Accordingly the Committee were of the view that the Landlord required to install a hardwired interlinked smoke alarm system in line with current regulations to ensure compliance with the repairing standard.

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.

Signed
Chairperson

E Miller

..... Date..... 28/5/12