



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Title Number: LAN61156

PRHP/ML3/43/11

Re: The residential dwellinghouse at

**124 Fleming Way
Hillhouse
Hamilton
ML3 9QH
("the Property")**

The Parties:-

**Miss Emma Donaldson resident at the Property
("the Tenant")**

and

**Mr Jim Docherty
C/O Excel Property
37 Bairds Crescent
Allanshaw Industrial Estate
Hamilton
ML3 9BG
("the Landlord")**

NOTICE TO THE LANDLORD

Whereas in terms of their decision dated 14 October 2011, the Private Rented Housing Committee determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord had failed to ensure that:

- (a) the Property was wind and watertight and in all respects reasonably fit for human habitation;
- (b) the structure and exterior of the Property (including drains, gutters and external pipes) was in a reasonable state of repair and in proper working order;
- (c) the fixtures, fittings and appliances provided by the Landlord were in proper working order.

The Private Rented Housing Committee now requires the Landlord 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 Private Rented Housing Committee requires the Landlord to:-

- (a) investigate all the causes of dampness in the back porch and carry out such works as are necessary to ensure that the dampness is eradicated and that the back porch is wind and watertight;
- (b) carry out such works as are necessary to ensure that the ceiling in the conservatory is secure and in a reasonable state of repair;
- (c) carry out such works as are necessary to ensure that front porch is wind and watertight;
- (d) replace the exterior windowsill at the front facing living room window and ensure that the window is wind and watertight;
- (e) provide the Tenant with an Allen key to allow the locks on the windows to open, close and lock.
- (f) make good any damage to the plasterwork and the decorations resulting from the remedial works carried out in accordance with this Order.

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 this and the preceding pages are subscribed by Ronald G Handley, solicitor, chairperson of the Private Rented Housing Committee on fourteenth day of October 2011 before this witness:

<p>Jane Handley _____ witness JANE HANDLEY _____ 23 LESLIE LAY _____ DWP _____ EH42 1GP _____</p>	<p>R G Handley _____ chairperson name of witness address of witness</p>
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PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

PROPERTY:

124 Fleming Way, Hillhouse, Hamilton, ML3 9QH



Decision by the Private Rented Housing Committee

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

PRHP/ML3/43/11

Re: The residential dwellinghouse at

**124 Fleming Way
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("the Property")**

The Parties:-

**Miss Emma Donaldson resident at the Property
("the Tenant")**

and

**Mr Jim Doherty
C/O Excel Property
37 Bairds Crescent
Allanshaw Industrial Estate
Hamilton
ML3 9BG
("the Landlord")**

The Committee comprised:

**Mr Ron Handley – Chairperson
Ms Carol Jones – Surveyor**

The Committee's Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord 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 Landlord had failed to comply with the duty imposed by Section 14(1)(b). The Committee therefore requires that the Landlord carry out such works as are necessary to ensure that the Property meets the Repairing Standard and that any damage caused by the carrying out of any

such works is made good. The Committee issued a Repairing Standard Enforcement Order.

The Background

1. On 21 February 2011 the Tenant applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act.
2. Following receipt of the application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee in accordance with Section 22(1) of the Act.

The Application

3. In her application the Tenant submitted that the Landlord had failed to comply with his duty to ensure that the Property met the Repairing Standard (as defined in the Act). It was suggested that the Landlord had failed to ensure that the Property was wind and water tight and in all respects reasonably fit for human habitation; the structure and exterior of the Property (including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order; the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water were in a reasonable state of repair and in proper working order; the Property had satisfactory provision for detecting fires and giving warning in the event of fire or suspected fire.
4. In particular the Tenant submitted in her Application Form that the front porch woodwork was rotten, the front door was hard to open and close, there was dampness in the bathroom ceiling and the wall in the back porch was "coming away". It was also submitted that the back porch heater was not working, the downstairs WC heater was not working, there were no smoke or CO2 alarms, the back porch roof was not secure and the front windowsill was missing.

The Evidence

5. The Committee had before it documents which included Land Register documents, a copy of the Application Form, copies of various letters sent by the PRHP to the Tenant and the Landlord, a letter of 4 September 2011 from Excel Property to the PRHP, letters of 10 and 26 January 2011 from the Tenant to Excel Property, letters of 11 December 2008 and 30 November 2010 from Excel Property to the Tenant and a letter of 29 November 2010 from South Lanarkshire Council to the Landlord.

The Inspection

6. The Committee inspected the Property on 5 October 2011 at 10.00am. The Tenant and the Landlord were present at the inspection.

The Hearing

7. A Hearing was arranged for 11.00am in Lifestyles Fairhill, Neilsland Road, Hamilton. The Tenant and the Landlord attended the Hearing. The parties were not represented. The evidence at the Hearing can be briefly summarised as follows.
8. The Chairperson welcomed the parties to the Hearing and reminded them that the issue before the Committee was whether or not the Repairing Standard had been met.
9. Miss Donaldson accepted that the heaters in the downstairs WC and the back porch were now functioning (albeit she had provided one of them). She also accepted that smoke alarms had been installed in the Property and that the problem with dampness/condensation in the bathroom appeared to have been resolved.
10. In regard to the front porch Mr Doherty explained that rotten wood had been stripped out and the glazing beads and internal frames had been replaced. The front door of the front porch had been planed.
11. Mr Doherty accepted that the replacement external windowsill (at the front facing living room) was not adequate and further works were required to ensure that the window was wind and watertight.
12. In regard to the back porch, Mr Doherty advised the Committee that some works had been carried out to remedy the problems but he accepted that it was likely that further works would be required. He thought that the high level of the ground at the rear wall of the back porch could be contributing to dampness in that wall. The Committee drew his attention to the poor state of repair of the roof. Miss Donaldson accepted that some works had been carried out to the back porch but suggested that there was still evidence of dampness in the back porch. She also reminded the Committee that the ceiling of the back porch was in a poor state of repair.
13. Miss Donaldson also advised the Committee that the Allen keys required to lock/unlock some of the windows in the Property had not been provided.
14. The Chairperson advised the parties that the Committee accepted that the Repairing Standard had not been met and that it was likely that a Repairing Standard Enforcement Order ("the RSEO") would be issued. This would require remedial works to be commenced and completed within a given timescale. The parties were requested to notify the Committee if it appeared that the remedial works could not be completed within the timescale allowed by the Committee. This would afford the Committee an opportunity of deciding if it was appropriate to allow further time for the works to be completed.

Summary of the issues

15. The issue to be determined by the Committee was whether the Landlord had complied with the requirements of the Act in ensuring that the Property met the Repairing Standard.

Findings

16. The Committee found the following facts to be established:
 - The Property is a two storey, semi detached house. At the front of the Property there is a small entrance porch ("the front porch") and there is a larger back porch at the rear of the Property.
 - The heaters in the back porch and in the downstairs WC are in proper working order.
 - Two functioning, mains powered and interlinked smoke alarms have been installed in the Property.
 - There is no evidence of dampness in the upstairs bathroom following the installation of a ventilation fan by the landlord.
 - Some works have been executed to the front porch. These works include the removal of rotten wood. However there are gaps in the area around the front door and the roof of the front porch is in need of repair. The front porch is not wind and watertight.
 - Some works have been executed to the back porch. However the roof is in a poor state of repair and is not adequately sealed, there is evidence of dampness in the rear external wall and parts of the ceiling are damp and not secure. The back porch is not wind and watertight.
 - The external windowsill at the front facing living room window has been replaced but the replacement is ill fitting and is not wind and watertight.
 - The Tenant has not been provided with an Allen key to allow her to open, close and lock the windows (which have locks fitted).
 - The Property is not wind and watertight and does not meet the standard set out in section 13(1)(a) of the Act.
 - The window locks cannot be used properly and do not meet the standard set out in section 13(1)(d) of the Act.

Reasons for the Decision

17. In the course of the inspection the Committee noted that there were gaps in the area surrounding the front door of the front porch. Whilst accepting that the Landlord had carried out some remedial works (removing rotten wood around the interior of the window frame and replacing the glazing beading), it was also noted the roof of the front porch was in a poor state of repair and the likely cause of the rot has not been eradicated. The front porch is not wind and watertight and not in a reasonable state of repair.
18. The Committee noted that some remedial works had been carried out to the back porch. However the Committee also noted that the roof of the back porch is in a poor state of repair, there is evidence of dampness in the rear external wall and ceiling and the ceiling is not in a reasonable state of repair. The conservatory is not wind and watertight and not in a reasonable state of repair.
19. The Tenant accepted that the external windowsill at the front facing living room window has been replaced. However it appeared to the Committee that the replacement windowsill is ill fitting and the window is not wind and watertight.
20. Some of the windows in the Property have locks fitted but the Tenant is unable to use the locks because she has not been supplied with an Allen key. The Committee accepted that the window locks cannot be used properly and do not meet the Repairing Standard.

Decision

21. The Committee determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.
22. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) of the Act.
23. The decision of the Committee was unanimous.

Right of Appeal

24. A Landlord(s) or Tenant 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

25. 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.

Signed ... R G Handley Date 14. October 2011
Chairperson