



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Ref: PRHP/EH15/74/11

Re: Property at 35 Southfield Farm Grove, Duddingston, Edinburgh EH15 1SR ("the Property")

TITLE NUMBER MID42780

The Parties:-

KATHRYN MITCHELL AND ANNIE FERGUSON, residing at 35 Southfield Farm Grove, Duddingston, Edinburgh EH15 1SR ("the Tenants")

ELIZABETH RAYMONDE MANSHOURI and MEHDI MANSHOURI, residing at 9 Duddingston Crescent, Edinburgh ("the Landlords")

NOTICE TO ELIZABETH RAYMONDE MANSHOURI and MEHDI MANSHOURI, residing at 9 Duddingston Crescent, Edinburgh ("the Landlords")

Whereas in terms of their decision dated 11th August 2011, the Private Rented Housing Committee determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlords have failed to ensure that:-

1. The structure and exterior of the house are in a reasonable state of repair and in proper working order – Section 13(1) (b) of the Act.
2. 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 – 13(1)(c) of the Act.
3. Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order – Section 13(1)(d) of the Act.

The Private Rented Housing Committee now requires the Landlords 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 landlords to carry out such works as are necessary to:

- (a) Repair the hole in the external wall of the property such that the property will be made wind and watertight and that the structure and exterior of the house are in a reasonable state of repair and in proper working order.
- (b) To exhibit to the Committee a gas safety certificate from a suitably qualified gas engineer which will in particular confirm that the gas boiler which was installed in the property in December 2010 is in a reasonable state of repair and in proper working order.
- (c) Renew or repair the tumble dryer situated within the property so that it is in a reasonable state of repair and in proper working order.
- (d) Effect such repairs and works as are necessary to the external steps of the property which lead to the back door such that they are made safe and so that they are in a reasonable state of repair and in proper working order.
- (e) Carry out such works as are necessary to repair the lighting under the wall units situated in the kitchen so that it is in a reasonable state of repair and in proper working order.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within a period of one month 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.

A Cowan

Signed..... Date..... 16/8/2011
Chairperson

Witness..... C A Millar

Name in full..... CAROL ANNE MILLAR

Address..... 7 WEST GEORGE ST. GLASGOW G2 1BA



Determination by Private Rented Housing Committee

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

Ref: PRHP/EH15/74/11

Re: Property at 35 Southfield Farm Grove, Duddingston, Edinburgh EH15 1SR ("the Property")

TITLE NUMBER MID42780

The Parties:-

KATHRYN MITCHELL AND ANNIE FERGUSON, residing at 35 Southfield Farm Grove, Duddingston, Edinburgh EH15 1SR ("the Tenants")

ELIZABETH RAYMONDE MANSHOURI and MEHDI MANSHOURI, residing at 9 Duddingston Crescent, Edinburgh ("the Landlords")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property concerned, and taking account of the evidence led by the Tenant in writing and at the hearing, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

Background

- 1** By application dated 5th April 2011 the Tenants applied to the Private Rented Housing Panel for a determination of whether the Landlords had failed to comply with the duties imposed by Section 14 (1) (b) of The Housing (Scotland) Act 2006.
- 2** The application by the Tenants stated the Tenants considered that the Landlords had failed to comply with their duty to ensure that the house meets the Repairing Standard and the Tenants brought forward the following alleged breaches:-
 - (a)** There is a hole in the side wall of the property (measuring approximately 2ft x 2ft). This hole was made at the time of the installation of a new boiler in the property in December 2010.
 - (b)** The Landlords have failed to exhibit a gas safety certificate in respect of the property and in particular has failed to exhibit such a certificate following the installation of a new boiler in December 2010.

- (c) There is a water leak coming from under the kitchen floor (close to the area of the installation of the new boiler). This leak had warped the laminate flooring within the kitchen and causes the cupboard door to scrape the floor when it is opened.
 - (d) There is a water leak, at the site of a vent on the rear external wall of the property, to the left of the back door. In addition there is damp coming through to the inside of the house directly behind the source of that leak.
 - (e) The tumble dryer, which was supplied by the Landlords for the Tenants use, is not in working order.
 - (f) The steps leading up to the back door of the property are severely damaged and unsafe.
 - (g) The bathroom sink does not drain quickly and continues to block.
 - (h) The bedroom window requires to be slammed shut to clear the catch.
 - (i) The lighting under the wall units in the kitchen does not operate.
 - (j) There is a hole in the kitchen wall, close to ceiling level, where the Landlord had previously carried out works in connection with an earlier plumbing problem.
- 3 The Private Rented Housing Committee served Notice of Referral dated 16th May 2011 under the terms of Schedule 2, Paragraph 1 of the Act on both the Landlords and the Tenants.
- 4 Following service of the Notice of Referral neither the Landlords nor the Tenants made further representations to the Committee.
- 5 Both the Landlords and the Tenants were advised that the Committee intended to inspect the property on the morning of 11th August 2011 and to thereafter hold a hearing, as to the merits of the application, on the same date.
- 6 On 10th August 2011 Mr Manshoury contacted the Clerk to the Committee. He advised the Committee that he was unable to attend the hearing and inspection and that he would await the Committee's instruction in due course.
- 7 The Committee proceeded with the inspection and the hearing on 11th August 2011. At that time Ms Kathryn Mitchell was present at both the inspection and the subsequent hearing. The hearing was held within the property at 35 Southfield Farm Grove, Duddingston, immediately after the Committee had inspected the Property. Neither Ms Annie Ferguson nor the Landlords attended the inspection or hearing.

Findings of Fact

- 8 Having inspected the property and taken account of oral evidence from Ms Mitchell and thereafter being guided by the Committee's professional surveyor member, the Committee found the following facts to be established:-
- (a) The Committee observed the large hole in the side wall of the property. It was evident that the property was not wind and watertight and in all other respects fit for human habitation. It was further obvious that the structure of the exterior of the house was not in a reasonable state of repair.
 - (b) Ms Mitchell gave evidence that the Landlords have never exhibited a gas safety certificate in respect of the property since the date a new boiler was installed in December 2010. The Tenants understood that no such certificate could be issued until the hole in the wall (referred to in paragraph (a) above) had been repaired. In

the circumstances the Committee were satisfied that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water were not in a reasonable state of repair or in proper working order.

- (c) The Tenants had complained of a water leak coming from the area close to the site of the installation of the new boiler. At the time of the inspection there was no evidence of such a leak. The Tenants accepted that the leak would appear to have stopped. Further there was no evidence of significant warping to the kitchen floor. In respect of this issue the Committee could find no evidence of any breach of the repairing standard.
- (d) The Tenants complained of a water leak in the wall of the property adjacent to a vent on the external wall of the property. The Tenants further complained that there was a damp patch on the internal wall adjacent to the source of the alleged leak. The Committee could find no evidence of a significant leak. The Committee did note there was a very small area of dampness on the internal wall but were not satisfied that this demonstrated any significant failure of the Landlords to adhere to the repairing standard. In the circumstances the Committee did not accept that in respect of this issue there had been a failure of the repairing standard.
- (e) The Committee tested the tumble dryer which is located within the property. The dryer started its cycle, but after a short while the drum appeared to seize and then stop. In the circumstances the Committee were satisfied that the tumble dryer, as a fixture and appliance provided by the Landlords, was not in a reasonable state of repair or in proper working order.
- (f) The Committee observed that the steps leading to the back door of the property were severely damaged and potentially unsafe. The Committee were satisfied that the steps were not in a reasonable state of repair.
- (g) The Committee observed that the bathroom sink was slightly slow to drain. Notwithstanding this the Committee were not satisfied that this issue demonstrated a breach of the repairing standard.
- (h) The Committee noted that the bedroom window did require to be forcibly shut to ensure that it properly closed. Notwithstanding this the Committee were not satisfied that this issue demonstrated a breach of the repairing standard.
- (i) The Committee noted that the lights fitted under the wall kitchen units were not operational. The Committee agreed that these were a fixture provided by the Landlords under the tenancy and that they were not in a reasonable state of repair or in proper working order.
- (j) The Committee observed a hole in the kitchen wall situated at ceiling level. It was understood this hole had been created by the Landlord when he had been attending to a previous plumbing issue reported by the Tenants. The Committee further observed that this issue had been raised by the Tenants in a previous application to the Private Rented Housing Panel. It was therefore appropriate that any damage caused by the Landlords in terms of that order should be considered by the Committee who granted that order and this Committee made no further order in that respect.

Decision

- 9 The Committee accordingly determined the Landlords had failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
- 10 The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1) of the Act.

11 The decision of the Committee was unanimous.

Right of Appeal

12 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

13 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.

A Cowan

Signed ...
Chairperson

..... Date.....

16 | 8 | 2011

C A Millar

.....Witness

CAROL ANNE MILLAR

.....Full Name

7 WEST GEORGE STREET

.....Address

GLASGOW G2 1BA