



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: G1/8511

Re: Property at Flat 6/12, 1 Blackfriars Road, Glasgow G1 1QD ("the house"), being the subjects registered in the Land Register of Scotland under Title No: GLA189573.

The Parties:-

Chay Ebert, c/o Tenant Network Limited, 131 London Road, North End, Portsmouth PO2 9AA ("the Landlord")

David Barbour, Flat 6/12' 1 Blackfriars Road, Glasgow G1 1QD ("the Tenant")

NOTICE TO CHAY EBERT ("the Landlord")

Whereas in terms of their decision dated 28 July 2011, 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 any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed, as set out in Section 13 (1)(e) of the 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 take adequate steps to ensure the complete eradication of the infestation of bedbugs within the Property and all steps necessary to prevent a further occurrence of such infestation and thereafter to provide written confirmation from a suitably qualified specialist contractor that all appropriate work has been undertaken.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 4 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 typewritten on this and the preceding page are executed by George Clark, solicitor, Quartermile Two, 2 Lister Square, Edinburgh EH3 9GL, chairperson of the Private Rented Housing Committee at Edinburgh on 28 July 2011 before this witness:-

R Sinclair _____-witness

G Clark _____ chairman

RAWAN SINCLAIR name in full

QUARTERMILE TWO Address

2 LISTER SQUARE

EDINBURGH

SOLICITOR Occupation

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

**Re: Property at Flat 6/12 Blackfriars Road, Glasgow G1 1QD
("the Property")**

The Parties:

**David Barbour, Flat 6/12 Blackfriars Road, Glasgow G1 1QD
("the Tenant")**

**Chay Ebert, c/o Tenant Network Ltd, 131 London Road, North End, Portsmouth PO2 9AA
("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 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.

The Committee comprised George Clark (chairperson), Kingsley Bruce (surveyor) and Tom Keenan (housing member). The Clerk to the Committee was Ian Mclean.

Background

- 1 By application dated 18 April 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 Tenants 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:
 - 2.1 Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
- 3 By letter dated 23 May 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 Tenants.
- 5 Following service of the Notice of Referral, the Tenant made a further written representation to the Committee dated 3 June 2011. The Landlord (by letter dated 30 May 2011), made written representations to the Committee.
- 6 The Private Rented Housing Committee inspected the Property on the morning of 28 July 2011. The Tenant was present, but the Landlord was neither present nor represented at the inspection.
- 7 Following the inspection of the Property the Private Rented Housing Committee held a hearing at Glasgow and heard from the Tenant. The Landlord was neither present nor represented at the hearing. The Tenant represented himself.

The tenant submitted as follows:-

- 7.1 He moved into the Property on 9 November 2010.
- 7.2 He had viewed the Property about 7-10 days before moving in and, when he viewed the Property, it was occupied by another tenant. The flat had been clean when he moved in.
- 7.3 He had slept on the sofa provided by the landlord for the first few weeks. It was the only bed in the Property and was the same sofa which had been there during the previous tenancy.
- 7.4 In early December 2010, he first noticed evidence of bites on his body. He stopped sleeping on the sofa, as, although he could not see any sign of infestation, he suspected the problem emanated from there, but he did not know that the cause was bedbugs and managed to deal with it up to a point with bug spray and by keeping the Property clean. He continued, however, to use the sofa as a settee.
- 7.5 The problem became noticeably worse when the winter weather abated and, in early February, he was able to see bugs, coming mainly from the sofa. He called in a pest control company, who identified the insects as bedbugs. The first bedbug that he saw was similar in size to the dead bedbug that he had shown to the committee at the inspection.
- 7.6 He contacted the local authority pest control department, but was advised that they could not take action, as it was a private let. On 21 March, he telephoned the Landlord's agent and followed up this call with an e-mail the following day, setting out the full situation. He confirmed in his e-mail that he had spoken to Citizen's Advice and the Private Rented Housing Panel, who had advised him to contact the Landlord and seek his response. On the same day, he reported the problem to the property management company for the development.
- 7.7 Neither the Landlord nor his agents had offered to inspect the flat or otherwise investigate the problem. He (the Tenant) had contacted 3 specialist companies and, whilst none of them had inspected the Property, they had all given an estimate. Rentokil had e-mailed the Landlord's agents on 4 April, outlining the problems that bedbugs can cause, the common methods by which they can be introduced to a property and the options for treating the problem. They gave an indication of the costs involved.
- 7.8 The Landlord's agent had e-mailed him on 5 April to say that, as the report (from Rentokil) indicated that the occupants, tenants or guests had brought the infestation to the property, the Landlord would not be accepting any liability for fumigating the flat. Accordingly, he had made the application to the Private Rented Housing Panel.
- 7.9 The last few months had been terrible. He was scared to visit friends in case he spread the infestation and could not invite friends or family to the Property. He had also had to explain to work colleagues the reason for his suffering from visible bites.
- 7.10 He accepted that it was not possible to prove who was responsible for bringing bedbugs into the Property, but he had never encountered bedbugs before, nor did he know anyone who had experienced such a problem.
- 8 The landlord was not present or represented at the hearing, so the only submission before the committee was contained in a written response, dated 30 May 2011 to the application. In it, the Landlord's agents contended that the Tenant had been living in the Property for 4 months before he reported a problem, that they had not received notification of any bedbugs problem in any of the other flats in the block. Their opinion was that the Property had never had a bedbugs issue and that this could be backed up by the fact the tenant did not have any problems with bugs until some 4 months after he moved in and not until March 20th (sic) that

he confirmed it was bedbugs. Their view was that the Landlord could not be held responsible, but were prepared to allow the tenant to dispose of the sofa bed and replace it at his own cost.

Summary of the issues

- 9 The issue to be determined is whether the Property meets the repairing standard as laid down in Section 13 of the Act and whether the Landlord has complied with the duty imposed by Section 14(1)(b).

Findings of fact

- 10 The Committee finds the following facts to be established:-
- 10.1 The tenancy is a Short Assured Tenancy.
 - 10.2 The Property comprises a studio flat, without a separate bedroom.
 - 10.3 The only bed supplied by the landlord is a sofa bed, although the Tenant has brought in his own bed settee since discovering the bedbugs problem with the sofa bed.
 - 10.4 The Property has an infestation of bedbugs. There is evidence of their faecal matter on the skirtings and the Tenant produced a dead bedbug for the committee at the inspection.
 - 10.5 Whilst it is not possible to positively identify the person who brought bedbugs into the Property, the sample seen by the Committee indicates that, unless they were brought in in an advanced state of maturity by the tenant or a guest of his, they have been present in the Property since a date prior to the commencement of the tenancy. On the balance of probabilities, the Committee has concluded that the infestation pre-dates the present tenancy.
 - 10.6 The infestation constitutes a failure by the Landlord to ensure the Property meets the repairing standard set down in Section 13 (1)(e) of the Housing (Scotland) Act 2006 in that one of the furnishings, namely the sofa bed, provided by the landlord is not capable of being used safely for the purpose for which it was designed.

Reasons for the decision

- 11 The Chairman of the Committee advised the Tenant at the inspection that he was not prepared to ask the members of the Committee to enter the Property itself, because of the danger of infestation being carried by them from the inspection. It was, however, possible to see the living accommodation from the open doorway of the Property and the Committee saw evidence of faecal matter on the skirtings. The Tenant also showed the Committee a dead bedbug, which was approximately 5 millimetres in length. At the hearing, the Tenant showed the Committee evidence of bite marks on his hands, arms and shoulders and the Committee concluded that they had seen sufficient evidence to conclude that there was an infestation of bedbugs within the Property and noted that there had been no representation to the contrary by the Landlord or his agents. The Committee accepted the response of the Tenant as to the length of time that had elapsed between his moving in to the Property and intimating to the Landlord the bedbugs problem, namely that he had not been able to identify the cause of his first bites in early December, that he had used bug sprays to alleviate the problem and that, whenever he saw a bug, in mid-February 2011, he took steps to ascertain what it was and then informed the local authority and the development management company, then approached Citizens Advice and the Private Rented Housing Panel. He contacted the Landlord's agents within a few days of being advised by prhp that he should do so. The conclusion of the Committee was that, whilst they had no specialist entymological knowledge, the size of the bedbug shown to them by the Tenant and his statement that it was about the same size as the first one he had seen, indicated that the first bedbug he saw in mid-February

2011 was a mature specimen which could reasonably have existed in the property prior to commencement of the tenancy. The Committee were concerned that the Landlord had made no effort to investigate the Tenant's complaint either in March, when he became aware of it, or in the lead-up to the hearing, but were, in any event, content to accept the Tenant's written and oral submissions.

- 12 The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
- 13 The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1). (Delete if not appropriate).
- 14 The decision of the Committee was unanimous.

Right of Appeal

- 15 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

- 16 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:

G Clark
George Clark, Chairperson

Date: 28 July 2011