



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Ref: PRHP/RP/15/0004

Re: Property at Flat G/1, 4 Montfort Park, Barrhead, Glasgow, G78 1SJ, being the subjects registered in the Land Register of Scotland under Title Number REN127932 ("the property").

The Parties:-

Mr Martin Stewart, residing at Flat G/1, 4 Montfort Park, Barrhead, Glasgow, G78 1SJ ("the Tenant")

Mr William Grainger, residing at 18 Daven Place, Plettenberg Bay, Western Cape, South Africa 6600 ("the Landlord")

NOTICE TO

Mr William Grainger, residing at 18 Daven Place, Plettenberg Bay, Western Cape, South Africa 6600 ("the Landlord")

Whereas in terms of their decision dated 6 May 2015, 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 ("The Act") and in particular that the landlord has failed to ensure that:-

- (a) The property is wind and water tight and in all other respects reasonably fit for human habitation.
- (b) 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.
- (c) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
- (d) Any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed.

the Private Rented Housing Committee now requires the landlord to carry out such works as are 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:-

- (i) engage a competent and reputable building contractor to carry out an inspection to report to the Landlord on the cause and solutions to the water ingress affecting the ceiling at the lounge bay window together with the adjoining external walls of the property;
 - (ii) carry out such works as are recommended by the building contractor's report to ensure that the property is fully wind and watertight.
 - (iii) carry out an electrical condition check specifically on the light fitting within the bay window of the living room which check should be undertaken by a suitably qualified and registered SELECT or NICEICE electrical contractor and which should specifically confirm that light fitting is safe to use.
- (b) carry out repairs to those parts of the parquet flooring in both the lounge and the kitchen, where sections of the flooring have lifted, so that the flooring is in a reasonable state of repair and on proper working order.
- (c) take such action as is necessary to secure the plinths to the kitchen base units, so that they are in a reasonable state of repair.
- (d) engage a suitably qualified engineer to investigate the cause of the washing machine malfunctions and to thereafter carry out any repairs recommended by that engineer to ensure that the Tenant has a fully functioning washing machine within the property.
- (e) carry out an electrical condition check on the cooker hood lights which check should be carried out by a suitably qualified and registered SELECT or NICEICE electrical contractor. The Landlord should thereafter carry out such works as that electrical contractor recommends to ensure that the cooker hood light fittings are safe and in proper working order.
- (f) engage a suitably qualified and GAS SAFE registered, heating engineer, to service the gas central heating boiler and to investigate the fault which causes the boiler to currently malfunction. The Landlord should thereafter instruct the heating engineer to carry out such works as the engineer recommends to allow the engineer to certify that the boiler is safe and in proper working order.

- (g) instruct an electrical condition check on the light fittings within the bedroom which check should be undertaken by a suitably qualified and registered SELECT or NICEICE electrical contractor and carry out such works as are recommended by the electrical contractor to ensure that the fitting is in a safe condition.
- (h) carry out necessary works to seal the split in the skirting board so that such draughts are excluded from the bedroom.

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this page and the preceding page are executed by Andrew Cowan, chairperson of the Private Rented Housing Committee at Glasgow on 6 May 2014 before this witness:-

A Cowan

Signed
Andrew Cowan, Chairperson

L McManus

.....Witness
Laura McManus Secretary, 7 West George Street, 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

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Re: Property at Flat G/1, 4 Montfort Park, Barrhead, Glasgow, G78 1SJ, being the subjects registered in the Land Register of Scotland under Title Number REN127932 ("the property").

The Parties:-

Mr Martin Stewart, residing at Flat G/1, 4 Montfort Park, Barrhead, Glasgow, G78 1SJ ("the Tenant")

Mr William Grainger, residing at 18 Daven Place, Plettenberg Bay, Western Cape, South Africa 6600 ("the Landlord")

Decision

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

The Committee consisted of

Mr Andrew Cowan – Chairperson

Mr Andrew Taylor – Surveyor Member

Background

1. By application dated 3/1/2015, the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of 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 property meets the repairing standard.
3. The Tenant annexed to his application a copy of an email dated 6 January 2015 addressed to the Landlord. The Tenant had listed in that email a summary of the issues which the Tenant believed the Landlord required to carry out in order to bring the property up to the repairing standard. The summary of the alleged breaches of the repairing standard are:-

External work

- (a) The roads and pavements which provide access to the property had not been completed. As a consequence raised drain covers and iron works on the road surface caused tripping hazards.
- (b) Landscaping had not been completed to the external gardens areas of the property.
- (c) An electric gate into the development in which the property is situated had not been fitted.

Basement/sub-floor

- (a) Following identification of rot issues in the communal basement/sub-floor of the property, works had been carried out, whereby insulation between the property and the basement had been removed and had not been replaced. As a consequence the property suffers from excessive draughts through the flooring of the property and throughout the property.

Living room

- (a) The property suffers from water ingress in the bay window area of the living room. In addition, dampness has affected a section of the ceiling.
- (b) The parquet type flooring within the property has lifted in various places. The Tenant alleges that this is dangerous to walk on as the lifted sections are sharp and could cause injury.
- (c) There is no carbon monoxide sensor fitted within this room which has a gas fire.

Kitchen

- (a) There are loose or badly fitted pelmet boards at the bottom of some of the kitchen covers.
- (b) The washing machine has not been fitted correctly within the kitchen and as a consequence it vibrates excessively when in use. In addition, the washing machine programming has malfunctioned so the washing machine cannot be operated correctly.
- (c) The cooker hood bulbs smoulder when in use.
- (d) There are a variety of cracks on the walls of the kitchen together with cracks on the skirting boards around the kitchen.
- (e) The boiler for the property, located in the kitchen, does not retain its water pressure and, consequently, requires to be "topped up" using the appropriate valve on occasion.
- (f) There is no heat sensor fitted within the kitchen.
- (g) There is no carbon monoxide sensor fitted within the kitchen.

Bathroom

- (a) There are loose or badly fitted bath panels.
- (b) The floor has a 6 or 7 degree run off.
- (c) The shower has flaking paint and suffers from dampness.
- (d) There is no shower extractor fan.

Hallway

- (a) There are cracks and gaps in the walls and around the door frames.

Bedroom

- (a) The chandelier light fittings within the bedroom flicker when left on.
- (b) There is a split on the skirting board adjacent to the door of the bedroom which allows excessive draughts to enter the bedroom.

- (c) There is no carbon monoxide sensor fitted, despite there being a gas fire within the bedroom.

General

- (a) All windows in the property allow excessive draughts into the property; the bathroom, window has no balanced weights so it is heavy to open.
 - (b) Wildlife sits on top of the chimneys of the property and cause excessive noise.
 - (c) The apartments above the property have had hardwood floor fitted, and this causes excessive noise within the property.
4. The Private Rented Housing Committee ("the Committee") served notice of referral dated 6th February 2015 under Section 22(1) of the Act on both the Landlord and the Tenant.
5. Both the Landlord and the Tenant were advised that the Committee intended to inspect the property on the morning of 27 March 2015. Following representations made by the Landlord the Committee agreed to adjourn the hearing and a further hearing and inspection were arranged for 21 April 2015.
6. The Committee proceeded with the inspection and the hearing on the 21 April 2015. The hearing and inspection were attended by:-
- (a) the Tenant;
 - (b) Mr Calum Anderson who accompanied the Tenant;
 - (c) Miss Heather Bianchi who had the authority of the Landlord to attend the hearing and represent him at that hearing.

The Inspection

7. At the inspection the Committee noted the followings points:-

External work

- (a) The Committee noted that the common rear access road to the property had not been completed, in that the final (and top) surface of the road had not been made up. Accordingly, some drain covers protruded above the road surface.
- (b) The Committee could not observe any particular areas of landscaping which did not appear to be complete.
- (c) The Committee noted that there were no electric gates into the development.

Basement/sub-floor

- (a) The Committee noted that work has recently been completed within the basement sub-floor so that insulation had been reinstated between the property and the communal basement. The ceiling of the basement has been recovered using plasterboard.

Living room

- (a) The Committee noted some apparent damp staining in the top right hand corner of the bay window area.
- (b) The Committee further noted that parts of the parquet flooring within both the living room and the kitchen had lifted in various places with sections of that parquet flooring lying loose on the floor.
- (c) The Committee noted there was no carbon monoxide sensor within the living room.

Kitchen

- (a) The Committee noted that there were two plinth boards at the base of two of the kitchen cupboards which were loose and could be taken away by hand.

- (b) The Committee noted that one of the electrical fittings holding the bulbs within the cooker hood was loose.
- (c) The Committee noted a variety of cracks in the walls of the kitchen.
- (d) The Committee noted there is no heat sensor fitted within the kitchen.
- (e) The Committee noted there is no carbon monoxide sensor fitted within the kitchen.

Bathroom

- (a) The Committee noted that the bath panels could be taken off by hand.
- (b) The Committee did note a minor run off on the flooring within the bathroom.
- (c) The Committee noted some very minor flaking paint around the ceiling of the shower.
- (d) There is an extractor fan in the bathroom.

Hallway

- (a) The Committee noted certain cracks on the plasterwork in the hallway around the door frame.

Bedroom

- (a) The Committee noted a split on the skirting board adjacent to the door of the bedroom and did observe draughts coming through that split in the skirting board.
- (b) The Committee further noted there is no carbon monoxide sensor fitted within the bedroom.

General

- (a) The Committee noted that all the windows in the property were in good condition commensurate with their age and the style of windows in this property.

The Hearing

8. The Committee heard evidence from the Tenant and from the Landlord's representative. The Committee went through each of the Tenant's complaints and reported on their own observations following the inspection earlier in the day.

External work

- (a) The Committee accepted the evidence of both the Landlord and the Tenant that the roadway serving the property was a common roadway, which had been built as part of a wider development of housing in which the property is situated. The road has not yet been fully made up as part of the development. Whilst the Committee accepted that there were some drain covers which protruded above the current level of road, the Committee did not accept that there was a failure by the Landlord in respect of the repairing standard relative to these matters. In the Committee's view the roadway was in a reasonable state of repair and allowed normal use.
- (b) The Tenant has indicated in his evidence that further landscaping works required to be carried out to the gardens at the front of the property. The Committee, from their own inspection, did not see that the garden ground was in an unsatisfactory condition and in the circumstances the Committee do not accept there was any failure of the repairing standard in respect of this matter.
- (c) The Tenant accepted that there had never been an electric gate installed at the entrance to the development in which the property is situated. The Tenant's position was that the Landlord had indicated at the start of his tenancy that such a gate would be installed. The Committee were of the view that, given that an electric gate has never been installed, there can be no failure to meet the repairing standard in respect of this matter.

Basement/sub-floor

- (a) The Committee noted during their inspection that recent works had been carried out to the communal basement of the property. It was explained to the Committee, by the Landlord's representative, that this work had been completed approximately four weeks prior to the date of the hearing. These works had been carried out since the date of the tenant's application to the Committee. The Tenant accepted that the works had now been completed and he accepted those works were of a good standard. In particular, he accepted that the works had greatly reduced the problem of excessive draughts which he had previously experienced in the property. The Committee accordingly determined that there was no failure by the Landlord to meet the repairing standard in relation to this matter.

Living room

- (a) The Tenant explained that there had been a history of water ingress at the bay window in the living room of the property. In the past works had been carried out (on behalf of the proprietor of the flat above the property) in an attempt to repair the property so that there was no further water ingress. The Tenant reported, however, that as recently as February 2015, water had continued to enter into the property. The Tenant was unclear as to where the water was entering, but it did eventually travel along the ceiling of his property and down the wiring into a chandelier light fitting. The Tenant continued to observe water dripping from the chandelier. As a consequence the Tenant was concerned that he could not use the electric chandelier light fitting in a safe manner and that there was water ingress in the property.

The Landlord's representative explained to the Committee about the previous works which have been carried out to the property to address issues of water ingress. The

Landlord's representative did not seek to dispute the Tenant's version of the recent events when further ingress of water occurred at the bay window around February 2015.

The Landlord's representative drew the Committee's attention to the terms of the domestic electrical installation condition report which had been lodged by the Landlord in advance of the hearing. That report was dated 5 November 2015. Paragraph 9 of the recommendations of that report highlighted that "installation is fair, but property has had water damage from roof which has gone into electrics, the electrics test ok though." The Landlord's representative invited the Committee to accept that the electrical installation report and in particular comments made by the electrician who had prepared the report, highlighted that all of the electrics within the property were safe. The Committee noted that the report produced by the Landlord was dated prior to the most recent complaint of water ingress raised by the Tenant.

In all the circumstances, and on the basis of the evidence presented to the Committee, the Committee are satisfied that there continues to be water ingress into the property at the site of the chandelier light fitting at the front of the living room. The Committee accordingly have determined that the property cannot be held to be wind and water tight and in all reasonable respects reasonable fit for human habitation in relation to that particular fault. The Committee therefore require the Landlord to:-

- (i) engage a competent and reputable building contractor to carry out an inspection;
- (ii) report to the Landlord on the cause and solutions to the water ingress affecting the ceiling at the lounge bay window together with the adjoining external walls of the property;

- (iii) Thereafter the Landlord should carry out such works as are recommended by the building contractor's report to ensure that the property is fully wind and watertight.
 - (iv) After such works are necessary to address issues of water ingress have been completed, the Landlord should carry out a further electrical condition check specifically on the light fitting within the bay window of the living room which check should be undertaken by a suitably qualified and registered SELECT or NICEICE electrical contractor and which should specifically confirm that light fitting is safe to use.

- (b) The Committee noted that there were parts of parquet flooring within the property which has lifted in various places. The Committee noted that there were two or three small sections where this had occurred. The flooring installed in the property is a fixture provided by the Landlord and is not in a reasonable state of repair and in proper working order. The Committee noted that the Landlord has in the past offered to repair the flooring. As at the date of the inspection the flooring within the property is not in a reasonable state of repair and in proper working order and accordingly the Committee determined that the Landlord should carry out necessary repairs to those parts of the parquet flooring in both the lounge and the kitchen, where sections of the flooring have lifted, so that the flooring is in a reasonable state of repair and on proper working order.

- (c) The Committee noted the Tenant's concerns regarding the lack of a carbon monoxide sensor within the living room of the property. The Committee observed that there are no current regulations which specifically require the Landlord to install such a sensor within the property. The Committee find that there has been no failure on the part of the Landlord relative to the repairing standard in relation to this matter.

Kitchen

- (a) The Committee had observed that two of the plinth boards at the base of the kitchen cupboards were not fixed to the kitchen units. The Landlord's representative suggested that the boards were easily removable to allow access under the cupboards. The Committee are of the view that the plinths should be fixed in a manner which allows them to be unclipped for access as required. The plinths are part of the fittings supplied by the Landlord under the tenancy and the Committee determine that they are not in a reasonable state of repair or in proper working order. The Committee accordingly determined that the Landlord should take such action as are necessary to secure the plinths to the kitchen base units, so that they are in a reasonable state of repair.
- (b) The Committee heard evidence from the Tenant that the washing machine vibrates excessively when it is spinning at a certain speed. The Tenant has attempted to "dampen" that vibration. The Tenant further advised the Committee that the washing machine programme does not operate correctly. The Landlord's representative led no evidence to dispute the Tenant's version of events in this respect. The Committee accordingly accept the evidence of the Tenant. The washing machine supplied by the Landlord is an appliance provided by the Landlord under the tenancy. The Committee accept that, on the evidence of the Tenant, the washing machine is not in a reasonable state of repair and in proper working order. The Committee accordingly have determined that the Landlord should engage a suitably qualified engineer to investigate the cause of the washing malfunctions and to thereafter carry out any repairs recommended by that engineer to ensure that the Tenant has a fully functioning washing machine within the property.
- (c) The Committee had noted that one of the electrical fittings for the cooker hood bulb appeared loose. The Committee accepted the undisputed evidence from the Tenant that the cooker hood bulbs smoulder when in use. The Committee consider that it is

appropriate that the Landlord should be required to carry out an electrical condition check on the cooker hood lights, which check should be carried out by a suitably qualified and registered SELECT or NICEICE electrical contractor. The Landlord should thereafter carry out such works as that electrical contractor recommends to ensure that the cooker hood light fittings are safe and are in proper working order.

- (d) The Committee noted that there was some cracking on the walls of the kitchen and around the points where the kitchen fittings were adjoined to the walls. These cracks were of a minor issue and the Committee are of the view that they are consistent with movement, expansion and contraction in a building of the type and age of the property. The Committee do not consider there was a failure of the repairing standard in relation to this matter.
- (e) The Committee accepted the undisputed evidence of the Tenant that the boiler does not operate correctly as it frequently requires to be "topped up". The Landlord's representative explained that there had been a recent gas safety check at the property and the Committee had noted the terms of that gas safety certificate. The Committee determined that the gas safety Certificate, in itself, was not sufficient to establish that the boiler had been properly serviced. The Committee accepted the undisputed evidence of the Tenant that there continued to be problems with the boiler's operation. In the circumstances, the Committee determined that the Landlord should engage a suitably qualified and GAS SAFE registered, heating engineer, to service the gas central heating boiler and to investigate the fault which causes the boiler to currently malfunction. The Landlord should thereafter instruct the hearing engineer to carry out such works as he recommends to allow the engineer to certify that the boiler is safe and in proper working order.
- (f) The Committee noted that there is no heat sensor fitted within the kitchen. The Committee noted that no such sensor was installed at the time the Tenant took occupancy of the property. In the circumstances the Committee are not satisfied that

there is a requirement for the Landlord to install such a heat sensor and there is accordingly no failure of the repairing standard in relation to this matter.

- (g) The Committee noted that there is a carbon monoxide sensor fitted within the kitchen. The Committee did not accept the Tenant's evidence that the sensor was located in the wrong position.

Bathroom

- (a) The Committee noted that the bath panels were loose. The Committee do not consider that they are not in a reasonable state of repair and accordingly do not find there is a failure of the repairing standard in that respect.
- (b) The Committee noted the Tenant's averments that the floor within the bathroom has at a slight slope of 6 or 7 degrees. The Committee did not accept that there was a failure of a repairing standard in relation to that matter.
- (c) The Committee had observed some very slight flaking paint and dampness above the shower within the bathroom. The bathroom was otherwise in a good condition and well decorated. The Committee were of the view that the effects of dampness from the shower were not unusual and were not a failure of the repairing standard.
- (d) The Committee noted there was an extractor fan within the bathroom although this wasn't located directly above the shower. The Committee determined that there was no failure of the repairing standard in respect of this issue.

Hallway

- (a) The Committee noted that there was minor cracking to some of the walls around the doorways in the hallways. The Committee were of the view that these cracks were of a minor nature and they were consistent with movement, expansion and contraction in the building of the type and age of the property. The Committee did not consider that there was a failure of the repairing standard in relation to this matter.

Bedroom

- (a) The Committee accepted the undisputed evidence of the Tenant that the chandelier light fittings within the bedroom flickered when left on. The Landlord's representative drew the Committee's attention to the electric testing report, dated 5 November 2014, which had been carried out at the property. Whilst the Committee accepted the terms of that report it appeared to the Committee that that report related primarily to the circuits and wiring within the property. There was no specific mention within that report that the light fittings in particular had been fully tested. Given that the Tenant complained that the light fittings continued to flicker, the Committee determined that it was reasonable and appropriate that the Landlord should:-
- (i) instruct an electrical condition check on the light fittings within the bedroom which check should be undertaken by a suitably qualified and registered SELECT or NICEICE electrical contractor; and
 - (ii) carry out such works as are recommended by the electrical contractor to ensure that the fitting is in a safe condition.
- (b) The Committee noted that the split on the skirting board adjacent to the door of the bedroom did allow draughts into the bedroom. The Committee determined that the Landlord should carry out necessary works to seal the split in the skirting board so that such draughts were excluded from the bedroom.
- (c) The Committee noted there was no carbon monoxide sensor fitted within the bedroom. The Committee were not satisfied that the Landlord is required under current regulations to install such a sensor. There is accordingly no failure of the repairing standard in this respect.

General

- (a) The Committee noted that the windows within in property were general in good condition. Whilst these "sash and case" type windows did move within their frames, the Committee were of the view that was consistent with the type of frames installed and consistent with the type and age of the property itself. In the circumstances, the Committee were satisfied that the windows were in a reasonable state of repair and in proper working order and accordingly determined that there was no failure of the repairing standard in relation to that matter.
- (b) The Committee were satisfied that the Landlord could not be expected to take steps to stop wildlife sitting on top of the chimneys to the property. There was no failure of the repairing standard in respect of that matter.
- (c) The Committee determined that the Landlord could not be expected to control the flooring which an upper floor resident may install in their property. The property did not accept that the Landlord had failed to meet the repairing standard simply because an upper floor neighbour had installed hardwood flooring in their property. The Committee accordingly determined there was no failure of the repairing standard in respect of that matter.

Decision

- 9. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act. #The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24.1 of the Act.
- 10. The decision of the Committee was unanimous.

Right of Appeal

11. 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

12. 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

Signer
Andrew Cowan, Chairperson

..... Date... 6/5/15

L McManus

.....Witness

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA