



REPAIRING STANDARD ENFORCEMENT ORDER
Ordered by the Private Rented Housing Committee

RE: Property at 64 Columba Crescent, Forgewood, Motherwell ML1 3YE more particularly described in Land Certificate Title number LAN78935(hereinafter referred to as "the House")

The Parties:

Douglas McCallum, 64 Columba Crescent, Forgewood, Motherwell ML1 3YE (hereinafter "the Tenant")

Shabir Latif, 12 Woodvale Road, Radcliffe, Manchester M26 1UA (hereinafter "the Landlord")

PRHP REFERENCE PRHP/RP/15/0104

NOTICE TO SHABIR LATIF

WHEREAS in terms of their decision dated 15 July 2015 the 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 House meets the repairing standard in that:

- "(a) the house is wind and water tight and in all other respects reasonably fit for human habitation,*
- (b) the structure and exterior of the house (including drains gutters and external pipes) are in a reasonable sate of repair and in proper working order,*
- (c) 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,*
- (d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order...*
- ...(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire."*

The Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House 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 Committee requires the Landlord:

- 1 To have the central heating system put into operating condition to include ensuring that none of the radiators leak and that the boiler produces hot water as intended and to have a new Landlords Gas Safety Certificate issued by a Gas Safe registered engineer.
- 2 To repair or replace the windows such that all windows are capable of being opened and closed as designed, are reasonably draught proof and that all locking and handle mechanisms operate as intended.
- 3 To remove all mould present on the walls, ceiling and on the windows of the House and to redecorate any affected areas.
- 4 To install fire detection devices in compliance with the terms of the Scottish Government Guidance on Satisfactory Provision for Detecting and Warning of Fires.

The Committee orders that the works specified in this Order must be carried out and completed within 28 days from the date of service of this Notice.

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 the decision.

Where such an appeal is made, the effect of the decision and 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 signed by John Miller McHugh, Chairperson of the Private Rented Housing Committee at Edinburgh on the Fifteenth day of July Two Thousand and Fifteen in the presence of the undernoted witness:

J McHugh

Chairperson

E Ming Fong

(Witness)

Witness E-MING FONG

Witness Address 3 Ponton Street, Edinburgh EH3 9QQ



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**

In connection with

Property at 64 Columba Crescent, Forgewood, Motherwell ML1 3YE (hereinafter referred to as "the House")

Douglas McCallum, 64 Columba Crescent, Forgewood, Motherwell ML1 3YE (hereinafter referred to as "the Tenant")

Shabir Latif, 12 Woodvale Road, Radcliffe, Manchester M26 1UA (hereinafter referred to as "the Landlord")

PRHP REFERENCE PRHP/RP/15/0104

DECISION

The Committee having made such enquiries as are fit for the purposes of determining whether the Landlord has complied with the duty imposed by section 14(1)(b) of the Housing Scotland Act 2006 (hereinafter "the Act") in relation to the House, and taking account of the evidence led by the parties at the hearing and of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application dated 20 March 2015 (hereinafter referred to as the "Application") the Tenant applied to the Private Rented Housing Panel (hereinafter "the PRHP") for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and, in particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

*“(a) the house is wind and water tight and in all other respects reasonably fit for human habitation,
(b) the structure and exterior of the house (including drains gutters and external pipes) are in a reasonable sate of repair and in proper working order,
(c) 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,
(d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order...
...(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.”*

The Tenant complained of a number of defects in the House.

By letter of 23 April 2015, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

The Committee comprised the following members:

John McHugh, Chairperson
Ian Mowatt, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

The Committee inspected the House on 19 June 2015. The Tenant was present and was represented by Mary McNulty of North Lanarkshire Council. The Landlord was represented by his letting agent, Michael Tarelli of 24/7 Property Letting Ltd

Following the inspection, the Committee held a hearing at Hamilton House Tribunal Suite, Caird Park, Hamilton. The same persons were in attendance. The Committee considered the written evidence submitted by the parties and heard representations from them.

Submissions at the Hearing

The Tenant raised a number of issues:

Heating

The Tenant complained that the gas central heating system did not work properly. The boiler been repaired recently and now heats the radiators. He still has difficulty in obtaining hot water as he has to press a button each time he wishes to use the hot tap. A radiator in the hall is leaking. He is concerned that the boiler had previously been certified as unfit for use.

Mr Tarelli produced a Landlord’s Gas Safety Certificate dated 30 March 2015 which he believed had been sent to the office of the PRHP previously although the

Committee had not seen it and there was some doubt that the Tenant had received a copy. The certificate confirmed that the boiler was in working order.

Windows

The Tenant finds the windows unduly draughty. They are difficult to open and close and he reports that the kitchen window locking mechanism is not working.

Mr Tarelli accepts that the windows would benefit from upgrading and has given advice to the Landlord in this respect. Mr Tarelli considers however that the windows are acceptable and do not breach the repairing standard.

Moisture

The Tenant complained of the presence of mould in the House. He complained of excessive condensation. Moisture was affecting the plaster. He was concerned that the House may have a problem with rising or penetrating dampness. Mr Tarelli acknowledges the condensation problem but which he relates to the problems with heating, use of the calor gas heater and general lifestyle factors.

Back Garden

The Tenant complains that the back garden is marshy and that ponding of water over a large area often occurs. Mr Tarelli has not observed the problem and reports that on his visit to the House in May there was no evidence of a problem.

Fire/Carbon Monoxide Detection

The Tenant complains that there is no provision for the detection of fire or carbon monoxide in the House. It is agreed that there is no carbon monoxide detector. Mr Tarelli advised that he was putting in hand measures to replace the existing battery powered smoke detector with a mains powered item.

Summary of the Issues

The issue to be determined is whether the House 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 in Fact

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

The Landlord and the Tenant entered into a Tenancy Agreement in respect of the House on 27 April 2011.

The Landlord was recorded on the Lease as Shabir Latif, c/o 24-7 Property Letting Ltd.

Shabir Latif, 12 Woodvale Road, Radcliffe, Manchester is the registered owner of the House.

The Tenant took possession of the House from 9 April 2011 and has remained in occupation since.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defects in the house which are now the subject of the Application by emails of 26 February 2015 addressed to the Landlord's letting agents.

The inspection on 19 June 2015 revealed:

The boiler worked and was able to heat the radiators and hot water. Hot water could only be produced if a button on the boiler was pressed immediately before use. It did not appear to be working as intended in this respect.

The radiator in the hall leaks.

There is evidence of heavy condensation throughout the house. Mould is present at various locations in the House consistent with having been caused by the excessive condensation.

The window of an unoccupied bedroom was covered in condensation.

The windows are difficult to open and close.

The Tenant had fitted draught excluder strips to the living room windows.

A Calor gas type heater is present in the front bedroom.

There is no carbon monoxide alarm.

In the hall there is an old battery powered smoke alarm which contains no battery.

The communal back garden is grassed and slopes away from the building. There was no evidence of ponding water. The ground seems dry underfoot and there was no evidence of marshy or muddy conditions. It was dry at the time of our inspection but there had been some rain in the preceding days.

Reasons for the Decision

Heating

The boiler does not appear to be working as intended in that it does not seem to produce hot water without an additional step of pressing a button on each use. The radiator in the hall is leaking. The Landlord produced to the Committee a

Landlords Gas Safety Certificate dated 30 March 2015 which confirmed that the boiler and the kitchen hob were considered safe. There are however evidently problems with the current operation of the boiler. We find there to be a breach of the repairing standard in this respect.

Windows

The windows are not in good condition and opening and closing them is difficult. We found it difficult to identify specific draughts but suspect that the difficulties with closing the windows may have contributed to the problem. We find there to be a breach of the repairing standard in this respect.

Moisture

There is no evidence of rising or penetrating dampness. There is evidence of excessive moisture which appears to be the result of condensation generated by normal living activities. The poor condition of the windows and the problems with heating (the Tenant reports being without functioning central heating for months) are likely to have exacerbated the problem. Use of a Calor gas heater would also increase moisture levels, although the Tenant reports having made only minor use of it. We find there to be a breach of the repairing standard in this respect.

Back Garden

There was no evidence of current or historic water logging. We find there to be no breach of the repairing standard in this respect.

Carbon Monoxide/Fire Detection

There is no carbon monoxide detection but there is no current legal obligation for this to be provided, albeit we would recommend that the Landlord gives serious consideration to provision of this on safety grounds. There is no breach of the repairing standard.

The current smoke alarm appears very old and has no battery. It is inadequate to meet current requirements. We find there to be a breach of the repairing standard in this respect.

Repairing Standard Enforcement Order

Having decided to make a Repairing Standard Enforcement Order, the Committee considered the length of time which should be provided for compliance. The Committee elected to impose a period of 28 days having regard to the seriousness of the defects identified and in particular having regard to the potential risk to the health and safety of the occupants of the House.

Observations

The Tenant complained of problems with the taps and of water leaking. He also complained of cracked and bossed plaster. We have made no finding in respect of these matters as they were not included in the Application. It would be advisable for the Landlord to address these matters as otherwise they might be the subject of a subsequent application.

The Landlord should have regard to the Scottish Government Guidance on Satisfactory Provision for Detecting and Warning of Fires in determining what is required in terms of upgrading the fire detection provision.

The Landlord may also wish to bear in mind that the provision of carbon monoxide detection is likely to be a requirement of official guidance in the near future.

Decision

The Committee, considering the terms of section 13(3) of the Act, 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(2) of the Act.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

J McHugh

John McHugh
Chairperson

Date: 15 July 2015