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Prepared in Contemplation of Litigation

Between:

[REDACTED]

Claimant

And

MILTON KEYNES COUNCIL

Defendant

EXPERT REPORT OF:

██████████

IN RESPECT TO:

██████████ Cherwell House, Derwent Drive, Milton Keynes

Prepared by: ██████████

Milton Keynes Council

Civic Offices

1 Saxon Gate East

Central Milton Keynes

MK9 3EJ

Date: 25th May 2023

1. INTRODUCTION

1.1 I, [REDACTED], am a Surveyor of Milton Keynes Council, a local authority. My experience is set out in both section 2 and Appendix 1 to this Report.

1.2 This Report has been prepared in accordance with instructions from Legal Services, Milton Keynes Council. My instructions are summarised in paragraph 1.5 below.

1.3 I understand that this Report will be made available to [NAME REDACTED] in his role as tenant, their respective advisors and the court if or when proceedings are issued. Given this Report has been prepared for the purpose of potential legal proceedings between the parties, I am conscious of my obligations as an independent expert and my Report has been prepared in line with my declaration at section 6.

1.4 Copyright of this document is vested with myself and Milton Keynes Council.

2. BRIEF

I have been instructed to prepare an Expert Report on behalf of the Landlord, Milton Keynes Council (herein referred to as 'the Landlord') of [REDACTED] Cherwell House, Derwent Drive, Milton Keynes (herein 'the Property'). The letter from Knightsbridge Solicitors, dated 16th March 2023, set out the disrepair as alleged. I attach this letter to this report as Appendix 2.

3. DISCLOSURE OF INTERESTS

3.1 I confirm that I am employed by the Landlord to this matter, Milton Keynes Council.

4. QUALIFICATIONS AND EXPERIENCE

4.1 please see attached my CV at Appendix 1, in relation to my qualifications

4.2 I have spent a substantial portion of my time surveying buildings, usually in the context of managing property development, building and refurbishment and considering, preparing and analysing construction defects and claims.

4.3 To the best of my knowledge, the matters put forward in this Report are accurate and true and include all known facts which are regarded as being relevant to the opinions expressed, including any known matters which would affect the validity of those opinions. This Report complies with the requirements of the Royal Institution of Chartered Surveyors (herein 'RICS'), as set out in 'Surveyors Acting as Expert Witnesses: Practice Statement and Guidance Note'.¹¹ Published by the RICS and effective from 2nd July 2014, 4th Edition.

4.4 This Report is prepared in accordance with Part 35 of the Civil Procedure Rules ('CPR') and accompanying Practice Direction 35. Furthermore, I am aware of the requirements of CPR35, Practice Direction 35 and the Guidance for the Instructions of Experts in Civil Claims 2014.

4.5 Whilst the opinions expressed in this Report are my own, I have been assisted, under my direction by administrative colleagues at Milton Keynes Council.

5. MY CONCLUSION AND SUMMARY

The Property is a 2-bed 1st floor flat within a block of 6. Constructed The flat consists of bathroom, kitchen, living room and 2 bedrooms.

5.1 During my inspection I was able to access all the parts of the Property relating to the alleged disrepair.

5.2 The Property is in good decorative condition throughout although it has been adversely affected by the items of disrepair claimed.

5.3 The letter of instruction from Knightsbridge Solicitors asked us to assess:

5.3.1

Lounge and bedroom have damp, mould and high humidity

5.3.2

No insulation in the walls which is causing property to freeze

5.3.3

Windows are poor quality letting cold in

5.3.4

Mould all around windows and damp on property

5.3.5

Gas pipes coming into living room which is a tripping hazard

5.3.6

Broken pipe near boiler

5.3.7

Loud noise from neighbours

Bedroom 1.

Mould growth noted around the window and contaminated sealant. No fabric failures were noted. The cause of the mould growth is a build-up of condensation and a lack of ventilation. No

faults were found with the windows, but I did agree to have the window seals, hinges and mechanism inspected and repaired if needed.

Small amounts of mould were detected on the ceiling of the side and external walls. On the balance of probabilities, I suspect the cause of the mould growth is a cold spot.

Lounge.

Mould growth noted around the window and contaminated sealant. No fabric failures were noted. The cause of the mould growth is a build-up of condensation and a lack of ventilation. No faults were found with the windows, but I did agree to have the window seals, hinges and mechanism inspected and repaired if needed.

A faint hairline crack was noted running along the artex coated ceiling. The cause is movement which is quite common in properties of this age and could be repaired through painting and decorating.

On the far corner of the external wall I was shown a redundant 15mm pipe.

Kitchen

Water stains and discoloration along with hair line cracks running along the kitchen ceiling above the sink, The staining is a result of a leak from the flat above which has now been rectified. also noted hair line cracks and slight paint cracking in the middle of the kitchen .

The tenant is also complaining about the jointing seal to the nonslip flooring. The floor has been welded. A common practice to secure 2 pieces of flooring and to prevent dirt and moisture from getting under the floor covering. No trip hazards or poor workmanship was noted. The tenant felt one clear piece of lino should have been installed.

No mechanical ventilation fan was also noted. Although no damp and Mould was noted during my visit, it is recommended the kitchen would benefit from a fan to help ventilation.

Bathroom.

Small amounts of water damage were noted to the boxing in. This was a result of a leak from the flat above which has been rectified now.

Roughly 2-3 inches of flooring was noted to be coming up between the toilet and bath.

No mechanical ventilation fan was also noted. Although no damp and Mould was noted during my visit, it is recommended the bathroom would benefit from a fan to help ventilation.

Bedroom 2.

The tenant showed me inside the cupboard which housed the hot water cylinder. Expanding foam was used to fill in the holes. This was poor workmanship. This has no Impact on the tenants

lifestyle.

A small piece of round top skirting is missing next to the cupboard measuring 3 inches.

A crack was noted running along the artex coated ceiling. This is suspected to be a result of movement with no risks. The tenant felt the ceiling would benefit from a suspended ceiling being installed, insulated, plaster boarded, plastered and painted. I advised the tenant this would not be possible for hairline cracks.

5.4 The general condition of the Property is decoratively good; however, repairs will be required as a result of the disrepair remedial works.

5.5 The repairs that I have identified will cause minimal disruption to the Tenant and the Tenant will be able to remain in the Property for the duration of the works.

5.6 I also include within my opinion that the repairs identified in my schedule fall within the express / implied section 11 of the Landlord & Tenant Act 1985 “repairing obligations of the landlord” taking into account the age location and character of the Property and its anticipated life.

5.7 Subject to legal confirmation, a potential liability may also arise under Section 4 of The Defective Premises Act 1972, in respect of items within my Schedule.

5.9 I estimate a cost of **£1360.00 + VAT** for all the repair works listed in my Schedule of Defects (Appendix 3). My estimated cost is based on a maintenance contractor using current costs (February 2020) and making reasonable assumptions from a visual inspection in respect of items when the full extent of works will not be known until opening works and intrusive testing are carried out. It is priced on the basis that the works would be carried out by a competent contractor. My estimated cost does not include Value Added Tax, Statutory fees, Professional fees or other on costs.

5.10 I estimate the defect rectification works described in my Schedule of Defects will take around 4 weeks to complete.

6 Background to the Property

6.1 The Property is located as identified on the Google Maps extract below.

6.2 The front elevation of the Property is shown in the photograph below.

6.3 I inspected the Property on the 18th April 2023 at 2pm. The Tenant was present at the time of my inspection. The weather was clear with and the ambient temperature (measured externally) was 10 degrees Celsius.

6.4 I was supplied with the tenancy agreement. However, I have not relied on this in my report and assume that Section 11 of the Landlord & Tenant Act 1985 and Section 4 of the Defective Premises Act 1972 will be implied into the tenancy.

7 My Findings and Recommendations

7.1 I refer to the defects listed in the Letter of Instruction (dated 16th March 2023) from


Solicitors

7.2 I shall now address the alleged defects below. In this section I shall have regard to the following:

- (i) Whether I agree that the defects are as claimed;
- (ii) Whether any of the defects are structural;
- (iii) My opinion, insofar as is possible, the cause of the Defect;
- (iv) Proposed works to be included in the Schedule of the Works (Appendix 3);
- (v) An estimate of costs of repairs; and
- (vi) Recommendations for further tests.

7.3 Lounge and bedroom have damp, mould and high humidity.

Liability is denied. The only job on the contractor's system noted regarding damp and mould was in January 2023 and a disrepair claim was raised in March 2023. This would not be classified as a "reasonable time" to rectify any fabric failures. The mould growth noted around the windows is a result of condensation, the trickle vents shut restricting air flow is the cause. The bedroom and lounge would benefit from ventilation. Small amounts of mould growth detected on the bedroom ceiling is a result of bridging or a cold spot.

7.4 No insulation in the walls which is causing property to freeze

Liability is denied. It is the tenant's testimony the property either gets extremally hot or extremely cold. The tenant would benefit from setting the room thermostat on 18 to 20 degrees permanently during the winter months and allowing extra ventilation during the warmer periods.

7.5 Windows are poor quality letting cold in.

Liability is denied. No faults were found with the windows during my visit. looking at through the contractor's computer system where jobs are logged, I can see a job was raised under job number P589200 and attended in October 2022. The double-glazed units were changes and the sash's were eased and adjusted. No other complaints or requests have been logged since that date.

7.6 Mould all around windows and damp on property

Liability is denied. The mould growth noted around the windows is a result of condensation, the trickle vents shut which is restricting air flow is the main cause.

7.7 Gas pipes coming into living room which is a tripping hazard

Liability is denied. A job was raised and attended to under job number GR588052. The works were completed in September 2022.

7.8 Broken pipe near boiler.

Liability is denied. This refers to the redundant pipe in the living room. No records of the tenant ever complaining or asking for a job to be raised for the pipe work to be removed or inspected.

SECTION C

8 Expert's Declaration

8.1 I, [REDACTED], declare that:

8.2 I understand that my duty is to the Court and that this duty overrides any obligations to the party

by whom I am engaged or the person who has paid or is liable to pay me. I confirm that I have complied

and will continue to comply with my duty.

8.3 I confirm that I have not entered into any arrangement where the amount of payment of my fees

is in any way dependent on the outcome of the case.

8.4 I know of no conflict of interest of any kind.

8.5 I will advise the party by whom I am instructed if, between the date of my Report and submission

to the Court there is any change in circumstances which affect my answers to paragraphs 6.3 and 6.4.

8.6 I have exercised reasonable care and skill in order to be accurate and complete in preparing this

Report.

8.7 I have endeavoured to include in my Report those matters, of which I have knowledge or of which

I have been made aware, that might adversely affect the validity of my opinion. I have clearly stated any qualifications to my opinion.

8.8 I have not, without forming an independent view, included or excluded anything which has been suggested to me by others, including those instructing me.

8.9 I will notify those instructing me immediately and confirm in writing if, for any reason my existing
Report requires any correction or qualification.

8.10 I understand that:

8.10.1 My Report will form the evidence to be given under oath or affirmation;

8.10.2 Questions may be put to me in writing for the purposes of clarifying my Report and that my answers shall be treated as part of my Report and covered by my Statement of Truth;

8.10.3 The Court may at any stage direct a discussion to take place between experts for the purpose of identifying and discussing the expert issues in the proceedings, where possible reaching an agreed opinion on those issues and identifying what action, if any, may be taken to resolve any of the outstanding issues between the Parties;

8.10.4 The Court may direct that following a discussion between the experts that a statement should be prepared showing those issues which are agreed, and those issues which are not agreed, together with a summary of the reasons for disagreeing;

8.10.5 I may be required to attend the Court to be cross-examined on my Report by a cross-examiner assisted by an expert; and

8.10.6 I am likely to be the subject of public adverse criticism by the Court if it concludes that I have not taken reasonable care in trying to meet the standards set out above.

9 Statement of Truth

9.1 I confirm that insofar as the facts stated in my report are within my own knowledge, I have made

clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion.