



REPAIRING STANDARD ENFORCEMENT ORDER

PROPERTY:

100 Blaefaulds Crescent, Denny, FK6 5EJ, registered in the Land Register for Scotland under title number STG33171 (the property)

THE PARTIES:

Miss Jane McLuckie, residing at the property (applicant and tenant)

and

- 1. Robert Phillips, registered in the Register of Landlords per Alexander Taylor Estate Agents, 78 High Street, Bonnybridge FK4 1BX; and now per David Richardson, The Letting Co, 7 York Lane, Grangemouth FK3 8BD (registered landlord)**

and

- 2. Robert Edmond Phillips and Christine Ann Phillips, Old Tree Cottage, Shaws Lane, Haseley, Warrick CV35 7JA (registered proprietors)**

PRHP Ref: RP/16/0216

WHEREAS in terms of its decision dated 4 October 2016 the Private Rented Housing Committee ('the Committee') determined that the landlords had failed to comply with the

duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 ('the Act') and in particular the property failed to meet the repairing standard as set out in section 13(1) of the Act.

The Committee now requires the Landlords to carry out such work as is required to ensure the property meets the Repairing Standard and that any damage caused as a consequence of carrying out of any works in terms of this Order is also made good before the expiry of the Completion Date.

THE ORDER

In particular, and without prejudice to the foregoing generality, the Committee **HEREBY ORDERS** the Landlords to carry out the following repairs ('the Works') within **four** weeks from the date of service of this Order;-

1. Lodge a copy Electrical Installation Certificate in the offices of PRHP.
2. Carry out all necessary work to properly affix the central heating radiator in the bedroom to the wall and thereafter carry out all necessary decoration to the bedroom as a result of the repairs.

RIGHT OF APPEAL

A landlord or tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

EFFECT OF APPEAL

In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any order will be treated as

having effect from the day on which the appeal is abandoned or so determined: IN WITNESS WHEREOF these presents consisting of this and the two preceding pages are subscribed as follows:

D Preston Chairman

4 October 2016 Date of Signing

OBAN Place of Signing

K Sinclair Witness

K Sinclair Name

22 ARGYLL Address
SQUARE

OBAN

PA34 4AT

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**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE UNDER
SECTION 24 OF THE HOUSING (SCOTLAND ACT 2006 AND THE PRIVATE RENTED
HOUSING PANEL (TENANT AND THIRD PARTY APPLICATIONS)(SCOTLAND)
REGULATIONS 2015**

in connection with

**100 Blaefaulds Crescent, Denny, FK6 5EJ, registered in the Land Register for Scotland
under title number STG33171 (the property)**

THE PARTIES:

Miss Jane McLuckie, residing at the property (applicant and tenant)

and

**1. Robert Phillips, registered in the Register of Landlords per Alexander Taylor Estate
Agents, 78 High Street, Bonnybridge FK4 1BX; and now per David Richardson, The
Letting Co, 7 York Lane, Grangemouth FK3 8BD (registered landlord)**

and

**2. Robert Edmond Phillips and Christine Ann Phillips, Oak Tree Cottage, Shaws Lane,
Haseley, Warrick CV35 7JA (registered proprietors)**

PRHP Ref: RP/16/0216

Committee Members: David M Preston (convener) and Mike Links (surveyor member)

Decision:

**The Committee, having made such enquiries as are fit for the purposes of determining
whether the landlord had complied with the duty imposed by section 14(1)(b) of the Housing
(Scotland) Act 2006 (hereinafter referred to as "the Act") in relation to the property, and
taking account of the representations by both the landlord and the tenant:**

1. **Determined that the landlord had failed to comply with the said duty; and**
2. **Determined to issue a Repairing Standard Enforcement Order under section 24(2) of the Act.**

Background:

1. By application received 13 June 2016, the tenant sought a determination of whether the landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.
2. The tenant complained that the landlord had failed to ensure that the property met the Repairing Standard in respect that:
 - a) Fixtures, fittings and appliances provided by the landlord under the tenancy were not in a reasonable state of repair and proper working order;
 - b) the house did not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. In particular the tenant complained as follows:
 - a) there was an unsafe wall plug in the kitchen which needed to be checked and replaced;
 - b) a radiator in a bedroom was hanging off the wall;
 - c) there was no heat detector in the kitchen;
 - d) there was no electrical safety certificate;
 - e) the oven needed to be replaced as all temperature guides had rubbed off.
4. The tenant sought: replacement of the damaged kitchen plug; installation of heat detector; replacement of oven; fixing the bedroom radiator to the wall; electrical installation condition report.
5. By Minute of Decision dated 8 July 2016 the application was referred to the Committee. A Notice of Referral, Inspection and Hearing dated 8 August 2016 was sent to the parties and the Panel scheduled the inspection and hearing for 7 September 2016.
6. Following service of the Notice of Referral, no further written representations were received from the tenant. The landlord's agent returned the response form dated 25 August 2016

along with written representations in terms of a letter dated 25 August 2016, together with his timeline of events and copy emails between him and the tenant.

Inspection and Tenant's Representations:

7. The Committee attended at the property on the morning of 7 September 2016 for the purpose of carrying out an inspection. The tenant was present at the property and there was no attendance by or on behalf of the landlord.
8. The property comprises a former SSHA end terraced house, two storeys in height, constructed approximately 35 years ago. The outer walls are assumed to be brick having been upgraded externally with insulation and rendering. The roof is pitched and tiled. There are small garden areas to the front and rear.
9. The tenant reported that an electrician had attended the property and had fitted a heat detector in the kitchen and had replaced the wall plug in the kitchen. He had checked the electrics but she said that she had not been provided with a copy of the Electrical Inspection Condition Report (EICR). She reported that a new oven had been provided and fitted.
10. The tenant indicated the points of concern which had been raised by her in the application. She advised that she was unable to attend the hearing as she did not have any arrangements for looking after a young baby. She advised that she had occupied the property for about six months and although many of the items complained of had been attended to, this had only been recently, despite lengthy correspondence with the landlord's agent. She said that she had not received a copy of the landlord's representations. In the light of this, the Committee advised that it would ensure that a copy of the representations were provided to the tenant and that she would be given an opportunity of making representations in response before the Committee made a final determination.
11. Photographs as contained in the attached Schedule were taken of the property and the issues raised by the tenant.
12. The tenant confirmed that she was happy to proceed on that basis and for the Committee to attend the hearing at which it was anticipated that Mr Richardson would appear.
13. Subsequent to the hearing, the landlord's representations were sent to the tenant by email at 16:08 together with a copy of the email of 5 September from the contractor. In response, the tenant denied having prevented access for the radiator to be fixed. She said that Mr

Richardson had not made contact with her regarding the radiator. She acknowledged that the contractor who had fitted the oven asked if he could look at the radiator but no prior arrangement had been made and it was not convenient to allow access to the bedroom at that time.

14. The inspection revealed that the only outstanding matter from the list of the tenant's complaints was that the radiator in the bedroom was insecure and not properly fixed to the wall.
15. The Committee noted that there were appropriate hardwired smoke detectors throughout the house in addition to the heat detector in the kitchen. The tenant was unable to confirm whether they were interlinked and the Committee did not carry out a check.

Hearing:

16. Following the inspection, the Committee attended at Wallace House, Maxwell Place, Stirling FK8 1JU for the purpose of the hearing. There was no attendance by or on behalf of the tenant. *Mr David Richardson attended on behalf of the landlord*

Summary of Issues:

17. The issue to be determined was whether the property met the repairing standard as laid down in section 13 of the Act and whether the landlord had complied with that duty imposed by section 14(1)(b).

Landlord's Representations:

18. Mr Richardson advised that as had been observed by the Committee at the inspection, four of the five issues raised by the tenant had been attended to. He showed the Committee an Electrical Installation Condition Report, which he undertook to copy and send to PRHP. The Committee advised that it would have to be satisfied of the qualifications of the electrician carrying out the EICR.
19. Mr Richardson provided the Committee with a hard copy of an email dated 5 September 2016 from Alan of ACR-contractors who reported that he had been at the property to have a look at the radiator but was told that the room had clothes all round it and he could not get access.

20. Mr Richardson advised that he had noted that the problem with the radiator at the pre-lease inspection but in view of what he considered to be the urgency of the tenant requiring to take occupation of the property as he understood she was on the verge of having her baby, he had agreed with the tenant to leave it at that time and to attend to it subsequently.
21. Mr Richardson said that he had made a series of attempts through his contractor, Graham Smith to attend to the matters but in view of the difficulty he had encountered in attempting to get access to the property, he refused to go back. Mr Richardson pointed the Committee to a number of emails referring to the difficulties in his contractor gaining access to the property. In addition he referred the Committee to a letter dated 19 May 2015 from Mr Smith which confirmed that he was not prepared to make any more efforts to attend the property.
22. The Committee told Mr Richardson that as the tenant had not had sight of his representations, a copy would be sent to her and her comments requested, which the Committee would take into account in making its determination. Mr Richardson was also advised that due to holidays, any determination would be delayed by a week to 10 days, which would provide an opportunity for him to arrange for the radiator to be fixed to the wall properly and for the EICR and verification of the electrician's status to be produced..

Findings and Reasons:

23. In coming to its decision, the Committee had regard to: the representations of the parties; copy Short Assured Tenancy Agreement dated 18 February 2016 and accompanying papers; copy Land Certificate for the property, title number STG33171; letter from Mr Richardson dated 25 August 2016 together with enclosures.

It also had regard to its own observations throughout the inspection.

24. The Committee anticipated that within the time available to the landlord's agent, in view of an impending holiday of one of its members that any decision should be deferred in the hope that the outstanding matter would have been attended to by the landlord's agent. On 13 September 2016 the landlord representative submitted copy SVG Certificate in respect of Alan Ross; copy City & Guilds Certificate in respect of Alan Ross; and copy SELECT Training Certificate in respect of Alan Ross.
25. On 22 September 2016, in the absence of a copy of the EICR having been submitted the landlord was reminded to produce same and the parties were contacted to ascertain whether the radiator had been fixed. On 30 September 2016 the tenant advised that the radiator had

not been fixed. She also advised that she had received Notice to Quit the property which is a matter over which the Committee has no jurisdiction or power.

26. In the absence of the radiator having been fixed and in respect of the failure of the landlord to submit a copy of the EICR, the Committee determined to issue a Repairing Standard Enforcement Order.

Right of Appeal:

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:

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.

D Preston

4 October 2016

SCHEDULE OF PHOTOGRAPHS

100 BLAEFAULDS CRESCENT, DENNY FK6 5EJ

REF: PRHP/RP/16/0216 7TH SEPT 2016



FRONT ELEVATION



KITCHEN POWER SOCKET



KITCHEN—HEAT DETECTOR



KITCHEN----OVEN



7

BEDROOM RADIATOR