



**Statement of decision of the Housing and Property Chamber
under Section 28 (1) of the Housing
(Scotland) Act 2006**

Chamber Ref: PRHP/RP/16/0197

Re : Property at 9/4 Northfield Grove, Edinburgh EH8 7RN (“the Property/the house”)

The Parties:-

Miss Briggette Sally Harrison, formerly residing at 9/4 Northfield Grove, Edinburgh EH8 7RN (“the Tenant”)

Kenneth Eadie, residing at 11 Hosie Rigg, Edinburgh EH15 3RX (“the Landlord”)

Decision

The First-tier Tribunal for Scotland (“the Tribunal”), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order in respect of the Property made on 24 August 2016 complied, determined that the Landlord had failed to comply with the Order and that the failure to comply should be reported to the local authority and the police.

Background

1. By application received on 18 May 2016, the Tenant applied to the Private Rented Housing Panel (which, since 1 December 2016 has become the Housing and Property Chamber of the First-tier Tribunal for Scotland) 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 Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard.
3. By letter dated 6 June 2016, 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 inspected the Property on the afternoon of 13 July 2016. The Committee comprised George Clark (Chair) and David Godfrey (surveyor member).
5. Following the inspection of the Property the Private Rented Housing Committee held a hearing at George House, 126 George Street, Edinburgh EH2 4HH and heard from both the Tenant and the Landlord.

6. Following the inspection and hearing, the Committee issued a Repairing Standard Enforcement Order ("the Order") in respect of the Property.
7. The Order required the Landlord to repair or replace all the kitchen cupboards and units, including cupboard doors, so that they are in a reasonable state of repair and in proper working order
8. The Private Rented Housing Committee ordered that the works specified in the Order must be carried out and completed within the period of 4 weeks from the date of service of Notice of the Order.
9. The surveyor member of the Committee reinspected the Property on the afternoon of 31 October 2016. He reported to the Committee that the Tenant was no longer residing in the Property, but that it appeared to have been re-let to a Mr Vikas and Mrs Kajol Songla, who provided access for the reinspection. The Landlord was not present at the reinspection, but was represented by Michael Annan and Kirsty McArdle of A+Lettings.
10. A copy of the Reinspection Report was sent to the Parties, who were given an opportunity to comment in writing on its contents. Neither party made any written representations on the Reinspection Report.
11. The jurisdiction of the Private Rented Housing Panel transferred to the Housing and Property Chamber of the First-tier Tribunal for Scotland on 1 December 2016.
12. The Tribunal held a hearing at George House, 126 George Street, Edinburgh EH2 4HH on the morning of 21 December 2016. Neither the Landlord nor the Tenant was present or represented at the hearing.
13. The Tribunal considered the contents of the Reinspection Report and noted that, while various repair works had been carried out to the kitchen cupboards and units, a number of the fittings were showing signs of deterioration, a number of door handles were loose, a number of drawers did not run freely and parts of the fittings were missing.

Summary of the issues

14. The issue to be determined was whether the Landlord had complied with the Order.

Findings of fact

15. The Tribunal finds the following fact to be established:-
 - The Landlord has carried out various repair works to the kitchen cupboards and units, including cupboard doors, but they are still not in a reasonable state of repair and in proper working order.
 - The Tenant has vacated the Property and it is now occupied by Mr and Mrs Songla.
 - The Landlord did not attend the hearing or make any written representations to the Tribunal by way of offering a reasonable excuse for having failed to comply with the Order.

Reasons for the decision

16. The Tribunal finds that the kitchen cupboard units still do not meet the Repairing Standard. They are not in a reasonable state of repair and are not in proper working order.

Decision

17. The Tribunal accordingly determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order in respect of the Property and that this failure should be reported to the local authority and to the police. In terms of Section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a repairing standard enforcement order commits an offence.
18. The Tribunal was unable to make a Rent Relief Order in respect of the property, as the Tenant is no longer residing there.
19. The Tribunal noted with concern that the Landlord appears to have re-let the Property since the Tenant vacated it. A landlord commits an offence under Section 28(5) of the Act if he enters into a tenancy or occupancy arrangement in relation to a house at any time during which a repairing Standard Enforcement Order has effect in relation to the house.
20. The decision of the Tribunal was unanimous.

Right of Appeal

21. **A landlord or tenant aggrieved by the decision of the Tribunal may seek leave to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

Effect of section 63

22. 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
Chairperson

G Clark

Date 21 December 2016