



DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE
UNDER

Section 26(1) OF THE HOUSING (SCOTLAND) ACT 2006 (the "Act")

In connection with

Property at 78 Kenmure Street, Glasgow G41 2NR
(the "House")

Ms Yousef Samater, 78 Kenmure Street, Glasgow G41 2NR (the "Tenant")

Ms Tanzeela Khan, 10 Westfarm Avenue, Glasgow G72 7RH (the "Landlord")

PRHP Reference PRHP/RP/13/0065

DECISION

The Committee, having made a repairing standard enforcement order dated 18 March 2014 (the "RSEO") with which the Landlord has not complied, resolves (i) to serve notice on Glasgow City Council as the local authority that the Landlord has failed to comply with the RSEO in terms of Section 26 (2) (a) of the Act and (ii) not to make a rent relief order in terms of Section 26 (2) (b) of the Act.

Background

1. By application dated 5 August 2013 and received on 6 August 2013 the Tenant applied to the Private Rented Housing Panel ("PRHP") for a determination 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 the duty to ensure that the House meets the repairing standard and in particular that the Landlord had failed to ensure compliance with Section 13 (1)(a), (c) and (d) which state that
 - (a) the house is wind and watertight and in all respects reasonably fit for human habitation;

(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.

The Tenant's complaints of disrepair within the application related to the toilet floor flooding with water from the shower, a collapsed ceiling, damp in the two bedrooms and the kitchen, a broken sink in the toilet and the shower, washing machine and refrigerator are not working.

3. The Tenant submitted a copy of a letter to the Landlord dated 14 August 2013 setting out these matters and calling on the Landlord to remedy these matters within a reasonable time as required by the Act failing which the Tenant would submit an application to the PRHP. The Landlord's former agents acknowledged receipt of this letter on 16 August 2013 and advised that they had forwarded the Tenant's letter to the Landlord.
4. Having received confirmation that the tenancy of the House had been lawfully terminated by return of documentation from the post office indicating that the Tenant had vacated the House, the President of PRHP, given the nature of the complaints within the application, considered that the application should be determined on public interest grounds due to the nature of the alleged repairs which raise health/safety concerns for any future tenants/occupants and issues as to whether the House is fit for human habitation. By letter dated 19 November 2013 PRHP intimated to the parties that the President of PRHP had decided to refer the application under Section 23(1) of the Act to a Private Rented Housing Committee (the "Committee").

The Committee comprised the following members:

Mr Jamie Millar, Legal Member;

Mr Alex Carmichael, Surveyor Member;

Mr Chris Harvey, Housing Member.

5. The Committee attended to inspect the House at 10.00am on 9 January 2014. The Landlord was not present. No access to the House was available as the Landlord was not present.
6. Thereafter the Committee held a Hearing at the offices of the PRHP at Europa Building, 450 Argyle Street, Glasgow G2 8LH. The Landlord was not present or represented at the Hearing. The Committee considered that the application should be determined on public interest grounds due to the nature of the

alleged repairs which raise health/safety concerns for any future tenants/occupants and issues as to whether the House is fit for human habitation

7. The Committee agreed to continue the Application until 14 February 2014 to allow Notice of Required Entry to be served on the Landlord by Sheriff Officer.
8. Notice was duly served on the Landlord by Sheriff Officer to intimate to the Landlord that the Committee would make an inspection of the House on 14 February 2014 at 10.00 am and that a further hearing would be held on the same day at 11.00 am in the PRHP Office, Europa Building, 450 Argyle Street, Glasgow G2 8LH.
9. The Committee was again comprised of the following members:-
 - Mr Jamie Millar, Legal Member;
 - Mr Alex Carmichael, Surveyor Member;
 - Mr Chris Harvey, Housing Member.
10. The Committee attended to inspect the House at 10.00am on 14 February 2014. The Landlord was not present but access to the House was made available to the Committee by the Landlord's brother, Mr Yasar Khan, who advised the Committee that the House was now occupied by him and that it was no longer let. Mr Khan advised the Committee that the Landlord was on holiday and that on her return she will be resident at the House.
11. Thereafter the Committee held a Hearing at the offices of the PRHP at Europa Building, 450 Argyle Street, Glasgow G2 8LH. The Landlord was not present or represented at the Hearing.
12. The Committee found that:-
 - 12.1 The House was no longer occupied by a tenant;
 - 12.2 The ceiling in the bedroom had been repaired;
 - 12.3 The toilet sink had been replaced;
 - 12.4 The shower was working;
 - 12.5 There was a shower screen in place to prevent the toilet floor from flooding with water from the shower;
 - 12.6 The washing machine had been replaced;
 - 12.7 The refrigerator had been replaced;

12.8 The House was badly affected by damp.

13. The Committee made the RSEO which was in the following terms:-

Whereas, the Private Rented Housing Committee has 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 is wind and watertight and in all respects reasonably fit for human habitation due to the House being badly affected by damp;

the Private Rented Housing 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 Private Rented Housing Committee requires the Landlord:-

(a) to have the House (including lower walls and sub floor timbers, etc.) inspected by a competent firm of damp proofing and timber preservation specialists and a report obtained specifying what necessary remedial action is required to be carried out to eradicate the damp in the House and to produce a copy of the report to the Private Rented Housing Committee within one month from the date of service of this Notice; and

(b) to carry out such works as are recommended in the report within two months of acceptance of the report by the Private Rented Housing Committee.

14. The RSEO was issued to the Landlord on 26 March 2014.

15. The Landlord has not produced to the Committee a report obtained from a competent firm of damp proofing and timber preservation specialists specifying what necessary remedial action is required to be carried out to eradicate the damp in the House within one month from the date of service of the RSEO.

16. Notice of a re-inspection was served on the Landlord requiring access to the House for a re-inspection at 10.00 am on 2 September 2014.

17. The Surveyor Member of the Committee attended at the House at 10.00 am on 2 September 2014 and access was refused by a person other than the Landlord who stated that he was the owner of the House.

Reasons for Decision

18. As the Landlord has not produced the report required by the Committee and as the Committee has been unable by inspection to determine whether the

House is no longer affected by damp the Committee resolves that notice is served on Glasgow City Council as the local authority that the Landlord has failed to comply with the RSEO in terms of Section 26 (2) (a) of the Act.

19. As the Tenant had abandoned the tenancy prior to the making of the RSEO the Committee resolves that no rent relief order is made in terms of Section 26 (2) (b) of the Act.
20. The decision of the Committee was unanimous.

Right of Appeal

21. 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 of the Act

22. Where such an appeal is made, the effect of the decision 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 will be treated as having effect from the day on which the appeal is abandoned or so determined.

—
Jamie Millar

Chairperson

29 September 2014