



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/16/0188

Re : Property at 64 Murray Place, Stirling, FK8 2BX ("the Property")

Title No: STG17742

The Parties:-

Dr Crona Hodges, 15 Jarvie Place, Carron, Falkirk, FK2 7FJ (represented by their agent, Mr Jordan Kirkwood, Clyde Property Residential Letting, 8 Busby Road, Clarkston, Glasgow, G76 7XL) ("the Landlord")

Miss Cara Scott and Mr Gary Morrison, 64 Murray Place, Stirling, FK8 2BX ("the Tenant")

NOTICE TO DR CRONA HODGES ("the Landlord")

Whereas in terms of their decision dated 19 July 2016 the Private Rented Housing Committee determined that the landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act") and in particular that the landlord has failed to ensure that the property is:-

- (a) wind and water tight and in all other respects reasonably fit for human habitation;
- (b) 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.

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 concerned 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 repair or replace the left hand upper and lower windows in the living room and the lower window in the front bedroom to ensure that they operate safely and are held in place securely when open and that the upper window closes properly to render the house wind and water tight;
- (b) to produce an up to date Gas Safety Certificate prepared by a registered Gas Safe Engineer to show that the gas installations within the property are in a reasonable state of repair and in proper working order.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 21 days from the date of service of this Notice.

A landlord or a 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.

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

IN WITNESS WHEREOF these presents type written on this and the preceding page(s) are executed by Graham Harding, Solicitor, chairperson of the Private Rented Housing Committee at PERTH on 1 August 2016, before this witness:-

D Clark

witness

DEBORAH CLARK

name in full

9 CARLILE PLACE

Address

PERTH

PHI SAR

LEGAL SECRETARY

Occupation

G Harding

chairman



Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

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Re : Property at 64 Murray Place, Stirling, FK8 2BX ("the Property")

The Parties:-

Miss Cara Scott and Mr Gary Morrison, 64 Murray Place, Stirling, FK8 2BX (**"the Tenants"**)

Dr Crona Hodges, 15 Jarvie Place, Carron, Falkirk, FK2 7FJ (represented by their agent, Mr Jordan Kirkwood, Clyde Property Residential Letting, 8 Busby Road, Clarkston, Glasgow, G76 7XL (**"the Landlord"**))

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned and taking account of the evidence lead by both the Landlord and the Tenants in their written responses, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 10 May 2016 the Tenants applied to the Private Rented Housing Panel 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 Tenants stated that the Tenants considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) the house is wind and water tight and in all other respects reasonably fit for human habitation;
 - (b) 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;
 - (c) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
3. By letter dated 02 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 served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenants.
5. Following service of the Notice of Referral the Tenants made no further written representation to the Committee other than their original application dated 10 May 2016. The Landlord by email dated 07 June 2016 made written representations to the Committee.
6. The Private Rented Housing Committee inspected the property on the morning of 13 July 2016. The Committee comprised Graham Harding, Legal Chairperson, and Sara Hesp, Surveyor Member. The Landlord's representative, Jordan Kirkwood was present during the inspection.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Stirling. Neither the Landlord nor the Tenants were present.

Summary of the issues

8. The issues to be determined are:-
 - i) Whether the windows in the living room and front bedroom closed properly and remained open when required;
 - ii) Whether the gas boiler was safe;
 - iii) Whether the gas hob was working properly.

Findings of fact

9. The Committee finds the following facts to be established:-
 - (a) The tenancy was subject to a Short Assured Tenancy, which had been terminated, and the property was vacant at the date of inspection;
 - (b) The Property had been sold with a date of entry of 08 August 2016;
 - (c) The upper left hand window in the living room did not close properly leaving a gap. The house was therefore not wind and water tight;
 - (d) The lower left hand window in the living room and the lower front bedroom window did not stay open as required. The weight of the windows caused them to close sharply and could be dangerous to those using them;
 - (e) The gas boiler appeared to have had work carried out on it. The Landlord's agent produced an invoice from RWC Plumbing and Heating dated 10/05/2016 in respect of the work done;
 - (f) There was no Gas Safety Certificate available since the boiler had been repaired;
 - (g) The gas hob appeared to be in full working order;
 - (h) The house has hard wired mains linked smoke and heat detectors in the hall and kitchen and a carbon monoxide detector in the kitchen. There was no mains linked smoke detector in the living room.

Reasons for the decision

10. The Committee's decision was based on the application with supporting documents, the comments and documentation lodged by the Landlord's representative and the Committee's findings at the inspection.
11. The Committee observed that the left hand upper window in the living room did not close properly thus leaving the property not wind and water tight. The Committee also found that the lower left hand window in the living room and in the front bedroom did not stay open as required and the weight of the windows caused them to shut as soon as they were let go. This could prove dangerous to anyone opening the windows. The Committee felt that it was necessary for the Landlord to produce a Gas Safety Certificate following upon the work carried out to the boiler and hob. The Committee was satisfied that the Tenants complaint so far as two of the windows were concerned were upheld.

Decision

12. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
13. The decision of the Committee was unanimous.

Right of Appeal

14. 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

15. 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 ..


G Harding

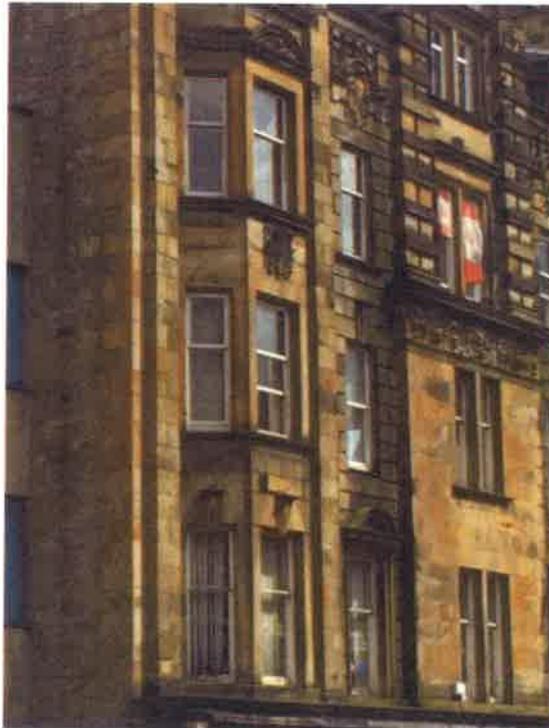
Graham Harding, Chairperson

Date: 1 August 2016



Schedule of photographs taken during the inspection of Flat 6, 64 Murray Place,
Stirling FK8 2BX on 13 July 2016

Exterior



Front elevation



Schedule of photographs taken during the inspection of Flat 6, 64 Murray Place,
Stirling FK8 2BX on 13 July 2016



Rear elevation



Schedule of photographs taken during the inspection of Flat 6, 64 Murray Place,
Stirling FK8 2BX on 13 July 2016

Interior



Living room – left hand bay window



Schedule of photographs taken during the inspection of Flat 6, 64 Murray Place,
Stirling FK8 2BX on 13 July 2016



Kitchen – gas boiler



Kitchen – gas hob