



REPAIRING STANDARD ENFORCEMENT ORDER
Ordered by the Private Rented Housing Committee

RE: Property being ALL and WHOLE the subjects known as and forming 16 Ochilview, Shieldhill, Falkirk FK1 2DP being part of the farm and lands of Greenmount, more particularly described in Disposition in favour of James Knowles Coulter dated 15 January and recorded in the Division of the General Register of Sasines for the County of Stirling on 2 February, both months of 1978 (hereinafter referred to as "the House")

The Parties:

David Graham and William Graham formerly of 16 Ochilview, Shieldhill, Falkirk FK1 2DP (hereinafter "the Tenant")

Andrew Craig, 49 Gartcows Drive, Falkirk FK1 5QQ (hereinafter "the Landlord")

PRHP REFERENCE PRHP/RP/13/0110

NOTICE TO ANDREW CRAIG

WHEREAS in terms of their decision dated 7 January 2014 the Committee 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 meets the repairing standard in that:

*"...(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 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 Committee requires the Landlord:

- 1 To put the central heating system into good working order such that all radiators in the House heat up fully as designed.

- 2 To cover over the exposed wiring in the en suite bathroom in a permanent method such as by plastering or similar.

The Committee order that the works specified in this Order must be carried out and completed within 42 days from the date of service of this Notice.

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 the decision.

Where such an appeal is made, the effect of the decision and 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.

IN WITNESS WHEREOF these presents typewritten on this and the preceding page are signed by John Miller McHugh, Chairperson of the Private Rented Housing Committee at Edinburgh on the Seventh day of January Two Thousand and Fourteen in the presence of the undernoted witness:

J McHugh

Chairperson

Witness

M O'Carroll

MICHAEL O'CARROLL

Witness Address

3 PONTON STREET
EDINBURGH
EH3 9QQ



DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE
UNDER SECTION 24(1)
OF THE HOUSING (SCOTLAND) ACT 2006**

In connection with

**Property at 16 Ochilview, Shieldhill, Falkirk FK1 2DP (hereinafter
referred to as “the House”)**

**David Graham and William Graham formerly of 16 Ochilview, Shieldhill,
Falkirk FK1 2DP (hereinafter referred to as “the Tenant”)**

**Andrew Craig, 49 Gartcows Drive, Falkirk FK1 5QQ (hereinafter referred
to as “the Landlord”)**

PRHP REFERENCE PRHP/RP/13/0110

DECISION

The Committee having made such enquiries as are fit for the purposes of determining whether the Landlord has complied with the duty imposed by section 14(1)(b) of the Housing Scotland Act 2006 (hereinafter “the Act”) in relation to the House, and taking account of the evidence led by the Landlord at the hearing and of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application dated 30 September 2013 (hereinafter referred to as “the Application”) the Tenant applied to the Private Rented Housing Panel (hereinafter “the PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application 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 the following paragraphs of section 13(1) of the Act:

*“...(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 complained of a number of defects in the House.

By letter of 25 October 2013, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

The Committee comprised the following members:

John McHugh, Chairperson
Christine Anderson, Housing Member
Ian Mowatt, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

On 1 November 2013, having been informed that the tenancy had been terminated, a Committee, consisting of the President and the Vice-President of the PRHP, issued a Minute of Continuation under paragraph 7(3) of Schedule 2 to the Act.

The Committee inspected the House on 19 December 2013. The Landlord was present. The Tenant was neither present nor represented.

Following the inspection, the Committee held a hearing at Greenpark Community Centre, Falkirk. The Committee considered the written evidence submitted by the parties and heard representations from the Landlord. The Tenant was neither present nor represented.

Submissions at the Hearing

The Landlord advised that the House had been his former home and that he was keen to maintain it in good condition. The Landlord’s position was that if any defects had been reported to him he would have dealt with them quickly. He considered that the complaints contained in the Application had not been made in good faith.

As regards the central heating system, the Landlord had always believed it to be in good working order. He produced a Landlord’s Gas Safety Certificate dated 15 December 2013 which confirmed that the gas hob and the central heating were in safe working order. The Landlord accepted that at the inspection certain radiators were failing to warm up adequately.

As regards the exposed wiring behind the en suite bathroom, the Landlord advised that this related to a lit mirror which had previously been there and the wires had been made safe. Nonetheless, the Landlord accepted that the wires ought to be covered over in a more permanent way.

As regards the kitchen worktop, the Landlord's view was that the small burned area was not significant.

In the rear bedroom, the Landlord advised that there had been some dampness in the wall between it and the bathroom which was caused by gaps in the shower sealant. The Landlord had remedied this and redecorated the affected area.

The Landlord advised that the blinds had been broken by the Tenant.

The Landlord did not believe that the other matters complained of in the Application had ever been real issues.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

Findings in Fact

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

The Landlord and the Tenant entered into a Tenancy agreement in respect of the House on 8 October 2012.

The Landlord was recorded on the Lease as Mr Andrew and Mrs Janet Craig.

Andrew Craig is the registered owner of the House.

The Tenant occupied the House from 8 October 2012 until on or around 9 October 2013.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The tenant notified the Landlord of the defects in the House which are now the subject of the Application by recorded delivery letter dated 20 August 2013.

The inspection on 19 December 2013 revealed:

The property is a modern detached house which generally is in very good condition with good quality fixtures and fittings and in very good decorative order.

Although the boiler was working and hot water was being produced, little heat was coming through some of the radiators. This was the case even after allowing over 30 minutes for the system to work and after the Landlord had turned up the boiler controls. The boiler did not seem noisy.

In the upstairs en suite bathroom, behind the mirror there were exposed electrical wires protruding through the plasterboard.

A small burn mark was present on the worktop.

The wall between the bathroom and the rear bedroom had recently been the subject of remedial works and was found to be free of dampness.

We found no evidence of any problems with any of the sink or bath plugs.

The shower was not rusty and was found to be in working order.

The cisterns appeared to fill as expected.

There was no evidence of any leaks from the en suite shower room and the hall ceiling was in good order.

There was no evidence of fire damage to the cooker. Although one foot of the cooker was resting on a wooden block, the cooker was entirely secure and appeared safe to use. The cooker and its thermostat appeared to work. No fuses were blown when it was operated.

No oil cans or other debris were present in the garden.

The living room blind had been replaced with a new one. The pole used to adjust the blinds in the kitchen was unattached but appeared capable of being re-attached.

Reasons for the Decision

The Repairing Standard

The Committee consider that the defects relating to the operation of the central heating and the exposed wiring in the en suite bathroom identified by the Inspection (noted in our Findings of Fact above) constitute breaches of the repairing standard.

The small burn mark on the work top was insufficiently significant to constitute a breach of the repairing standard.

We make no finding of a breach of the repairing standard in respect of the kitchen blind on the basis that we accept the Landlord's position that the Tenant is responsible for the minor damage evident and which is likely to be capable of comparatively simple repair.

We found no evidence of the other defects complained of.

We found the Landlord to be entirely credible.

Repairing Standard Enforcement Order

Having decided to make a Repairing Standard Enforcement Order, the Committee considered the length of time which should be provided for compliance. The Committee elected to impose a period of 42 days having regard to the likelihood that the relatively minor works required could be completed within that timescale.

At the hearing, the Landlord expressed the view that remedial works could be undertaken very quickly and that he may wish to re-let the property promptly thereafter. The Landlord is reminded that if the remedial works are completed sooner than the 42 day period required, he is at liberty to contact the office of the PRHP to arrange for an earlier re-inspection to take place.

Decision

The Committee, considering the terms of section 13(3) of the Act, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(2) of the Act.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

J McHugh

John McHugh
Chairperson

Date: 7 January 2014