

A Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/14/0012

Re : Property at 53 Grey Craigs, Cairneyhill, Fife KY12 8XN ("the Property")

Land Register Title No: FFE28771

The Parties:-

Mr Satwant Sidhu, 97 Glenbervie Road, Kirkcaldy, Fife KY2 6XT ("the Landlord")

Ms Carole Perrit, 53 Grey Craigs, Cairneyhill, Fife KY12 8XN ("the Tenant")

NOTICE TO:-

Mr Satwant Sidhu, 97 Glenbervie Road, Kirkcaldy, Fife KY2 6XT

Whereas in terms of their decision dated 16 May, 2014, The Private Rented Housing Committee having 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 comply with the duty to ensure that:- the house is wind and watertight and in all other respects reasonably fit for human habitation, that the installations in 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 of the work in terms of this Order is made good.

In particular, the Private Rented Housing Committee requires the Landlord to:-

1. Repair / replace the double socket, under-cabinet lighting and spot light in the kitchen to ensure that they are in proper working order.
2. Remove items not belonging to the Tenant situated in the back garden and lane to ensure that the property is reasonably fit for human habitation.
3. Produce current gas safe certificate for gas installations in the property.
4. Produce a copy of current electrician's report on the installations and supply of electricity within the property.
5. Repair / replace living room radiator to ensure it is in proper working order.
6. Investigate and rectify the source of water ingress under the floor in the hall area.
7. Repair bathroom window to ensure it is in a reasonable state of repair and in proper working order.

The Private Rented Housing Committee orders that this work should be carried out within a period of 2 months from the date of service of this notice.

A landlord or a tenant aggrieved by this 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 variation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the

decision, the variation will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page are executed by Judith V Lea, solicitor, Unit 3.5 The Granary Business Centre, Coal Road, Cupar, Fife, KY15 5YQ, chairperson of the Private Rented Housing Committee at Cupar on 12 May 2014 before this witness:-

M Smith

..... Witness

Maxine Smith
Unit 3.5, The Granary Business Centre
Coal Road
Cupar
Fife

J Lea

..... Chairman



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

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The Parties:-

Mr Satwant Sidhu, 97 Glenbervie Road, Kirkcaldy, Fife KY2 6XT ("the Landlord")

Ms Carole Perrit, 53 Grey Craigs, Cairneyhill. Fife KY12 8XN ("the Tenant")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by both the Landlord and the Tenant at the hearing, 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 January 2014, the Tenant 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 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 that the house was wind and water tight and in all other respects reasonably fit for human habitation; that the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order, that any fixtures and fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order and that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. 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 Tenant.
5. The Private Rented Housing Committee (comprising Ms Judith Lea, Chairman and Legal Member, Charles Reid Thomas, Surveyor Member and David Hughes Hallett, Housing Member) inspected the Property on 30 April 2014. The Tenant was present, accompanied by Councillor Kate Stewart and Claire McIntosh, senior case worker with Dunfermline Constituency Office of Cara Hilton MSP. The Landlord arrived shortly after the inspection had started with his wife, Jantinder Kaur and Linda Facey. Interpreter Khurram Riaz was also present to provide interpretation for the Landlord.
6. Following the inspection of the Property, the Private Rented Housing Committee held a hearing at The Vine Conference Centre, Garvock Hill, Dunfermline. The Tenant was present and accompanied by Counsellor Kate Stewart. The Landlord was present and represented by his wife Jantinder Kaur. Linda Facey was also present with the Landlord. Khurram Riaz was in attendance to interpret for the Landlord.

Submissions for the Tenant

7. The Tenant advised that the hole in the livingroom wall had now been repaired. There were ill-fitting windows in both bedrooms and the bathroom. The smell of stagnant water was on-going but the cause had been discovered after a health and safety visit. The Tenant referred to the invoice from Meldrum Plumbers and Heating Engineers dated 12 February 2014 and advised that she had had to get these plumbers out and had had to pay the bill. The central heating thermostat had now been replaced and there was a new one which the Tenant paid for. The livingroom radiator is still jammed on. The double socket in the kitchen is still not working. There is still rubbish in the garden and the back lane. The under cabinet lights and spotlight in the cabinets in the kitchen are still not working. The Tenant advised that she obtained her own gas safety certificate and paid for it. The radiator in the bathroom is leaking which had resulted in the floor in the hall and the back bedroom sinking and had caused water under the floor. The Tenant referred to a meeting in December 2013 with Frontline Fife, at which Councillor Kate Stewart and Linda Facey were present. What was discussed at the meeting was contrary to what the Landlord put in his written submissions. The Tenant advised that the Landlord's wife at this time was told to contact the Citizens Advice Bureau. The Tenant emphasised that the repairs had not been dealt with as soon as they were reported. The cooker, lights, radiator and the rubbish had still not been attended to. The gas engineer had looked at the sockets and said that they were dangerous but it took weeks to sort them out. There was a hole in the wall from December 2013 to February 2014. The Tenant stated that she had only not been in once and this was only because she didn't know she was supposed to be there. She stated that the smell was clearly not coming from her dog and referred to the abatement notice in connection with the smell. She indicated that in connection with the electrical certificate from David Johnston, she did not know who he was.

Submissions for the Landlord

8. The Landlord indicated that he wished his wife to represent him. His wife stated that the Tenant had not given her rent and therefore it was not possible to do the repairs. She advised that she and her husband were working and needed to pay

the mortgage and had children and were very busy people. She enquired of the Tenant why the Landlord should pay the invoice from Meldrum Plumbers and Heating Engineers. The Tenant stated that this work had been necessary after a visit from the Health and Safety Executive following removal of the gas fire when the gas installations were condemned. The Landlord stated that he had buildings insurance and would get the water problem sorted. He stated that the lights were working and that when they went wrong an electrician was sent round and he fixed them. The Landlord's wife stated that they had a current gas safety certificate and electric certificate but did not have copies with them. The Landlord's wife confirmed that they would be able to provide these by email as soon as possible. The Landlord's wife stated that their electrician had stated that the double socket in the kitchen was ok. The Landlord indicated that they would change the radiator in the livingroom but they had not had access to do so. In connection with the oven, the electrician had said that it was fine but the Tenant had changed it and put in her own oven. The Landlord advised that the washing machine and tumble drier had been removed from the garden and that he did not know where the other rubbish came from but it did not belong to the Landlord.

9. In response to a question from the Committee, the Tenant confirmed that the hole in the wall had now been rectified and was not causing any further problem.

Decision

10. The Committee could only consider the matters which were raised by the Tenant in her application. The Committee must consider the present condition of the property and whether or not it meets the repairing standard. Issues of who paid for what and whether rent has been paid are not issues for this Committee. The Committee considered each of the issues raised in the Tenant's application individually.

Hole in Livingroom Wall where Gas Fire Removed

11. It was clear from the inspection and from the parties representations that this matter had been rectified and there was no longer a hole in the wall. Damp meter readings were taken and there is no on-going damp problem in this area. Although the wall requires to be redecorated the Committee did not find that the state of the livingroom wall at present is a breach of the Repairing Standard.

III-Fitting Windows

12. The windows were examined at the inspection. The Tenant advised that they were not wind and watertight. From inspection however the windows appeared to shut satisfactorily and to be watertight. Given the age of the property and the type of window the Committee did not consider that the condition of the windows in the two bedrooms breached the Repairing Standard. The window in the bathroom however has a catch missing and accordingly is not in a reasonable state of repair. The Committee accordingly proceeded to make an order in respect of repairing this window.

Broken Oven

13. The oven which the Tenant claimed to have been broken has been removed by the Tenant and is now in the garden. Accordingly the cooker that is in the property at present belongs to the Tenant and is her appliance. The Tenant

advised that she had replaced the bulb and the Committee could not see any ongoing problems with the cooker hood. The Committee could not find any breach of the Repairing Standard.

Central Heating Thermostat

14. It was clear from inspection and from the submissions made that this has been replaced. The Committee accordingly could not find a breach of the Repairing Standard given that the Committee is looking at the property in the state it was in on the date of inspection.

Smoke Detector

15. The Tenant confirmed that there was a hard wired smoke detector in the property and that she had replaced the battery. It was clear from inspection that this is the case and accordingly there is no breach of the Repairing Standard.

Rubbish in Garden / Back Lane

16. It appears that the tumble drier and the washing machine have been removed by the Landlord from the back garden. There were however a lot of other items in the garden and in the back lane which do not belong to the Tenant. The Landlord stated that they did not belong to him. It may be that they are the property of a previous tenant. In any event, to allow the Tenant to have proper use of the garden and the back lane, these items will require to be removed. The Committee accordingly found a breach of Section 13(1)(a), given that the state of the garden at present is not such that the property is reasonably fit for human habitation.

Double Socket in Kitchen & Under-lighting and Spotlights in Kitchen Cabinet

17. The Tenant claimed that the double socket was not working. The Landlord stated that the electrician had said that it was ok. At the inspection the Tenant demonstrated that the plug did not appear to be working by plugging various appliances in to it. It also appeared from inspection that the under-lighting and spotlight in the kitchen cabinets were not working. The Landlord stated that the electrician had fixed these but they do not appear to be in working order. The Committee accordingly found a breach of Section 13(1)(c) and proceeded to make a Repairing Standard Enforcement Order.

Gas and Electricity Safety Certificates

18. The Landlord and his wife advised that they had an up to date gas safety and electrical certificates which could be made available by email as soon as possible. The Committee has not yet had sight of such certificates and accordingly made an order that these be produced.

Livingroom Radiator

19. The Landlord accepted that the radiator was jammed on and could not be switched off and indicated that this would be rectified once access was given. The Committee found this a breach of Section 13(1)(c) of the Repairing Standard and made an order in respect of the same.

Stagnant Smell in Kitchen / Bathroom / Hall

- 20. It was clear from the inspection that the bathroom radiator is leaking and that there is water under the floorboards which could be seen through a hole in the floor in the cupboard in the hall. The Tenant advised that there had been a stagnant smell for some time but it had only recently been discovered what the cause was. The Landlord indicated that this would be investigated and rectified. This is clearly a breach of the Repairing Standard Section 13 (1)(a) and (c). The Committee accordingly proceeded to make a Repairing Standard Enforcement Order in respect of this.
- 21. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act
- 22. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1).
- 23. It may take some time to investigate and rectify the source of the water problem under the floor. The Committee accordingly considered that it would be reasonable to allow a period of months to for these matters to be rectified.
- 24. The decision of the Committee was unanimous.

Right of Appeal

- 25. **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

- 26. 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 **J Lea** Date 16/5/14

Chairperson