



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0060

Re : Property at 76c Grainger Street, Lochgelly, Fife KY8 9HY ("the Property")

Land Certificate No: FFE16275

The Parties:- Sharon Fisher, c/o Remax First, 1a Whytescauseway, Kirkcaldy, Fife KY1 1XF ("the Landlord") and
Tyler Kirkham, 76c Grainger Street, Lochgelly, Fife KY5 9HY ("the Tenant")

NOTICE TO SHARON FISHER ("the Landlord")

Whereas in terms of their decision dated 12 May, 2015, 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 and in particular that the landlord has failed to ensure that:-

- (a) the Property is wind and water tight and in all other respects fit for human habitation, ,
- (b) the installations in the Property 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, and
- (f) the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire,

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:-

- (1) to exhibit to the Committee a current Electrical Inspection Condition Report in respect of the Property, to include smoke and fire detectors;
- (2) to obtain from a suitably qualified electrical contractor a report confirming whether the present space heating arrangements are adequate for the Property and to carry out such improvements as the contractor may recommend and then redecorate as necessary; and
- (3) to install in the Property fire and smoke detectors to ensure that it complies with the Scottish Government's revised statutory guidance and the revised Domestic Technical Handbook.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of four weeks 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.

In witness whereof these presents typewritten on this and the preceding page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade, on 12 May 2015, before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

V. CLARK

G. CLARK

— witness

___ chairman



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

prhp Ref: PRHP/RP/15/0060

Re : Property at 76c Grainger Street, Lochgelly, Fife KY5 9HY ("the Property")

The Parties:-

Tyler Kirkham 76c Grainger Street, Lochgelly, Fife KY5 9HY ("the Tenant")

Sharon Fisher, c/o RE/MAX First, 1a Whytescausway, Kirkcaldy, Fife KY1 1XF ("the Landlord")

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 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 14 February 2015, received on 17 February 2015, 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 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 otherwise fit for human habitation, and
 - (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,
3. By letter dated 11 March 2015 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. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than the original application dated 14 February 2015. The Landlord made no written representations to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 12 May 2015. The Tenant was present at the inspection. The Landlord was not present or

represented during the inspection. The Committee comprised George Clark (chairman), Kingsley Bruce (surveyor member) and Christine Anderson (housing member).

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Crossgates Community Centre, Crossgates, Fife and heard from the Tenant. The Landlord was not present or represented at the hearing.
8. The Tenant submitted as follows:- the Tenant and her now ex-partner moved in to the Property on 28 November 2014. On 3 December 2014, she had e-mailed the Landlord's agents, RE/MAX First to complain that the Property had been very dirty when they had moved in, with the curtains being dirty and the sofas being dirty, stained and damaged. There were other issues which the Tenant asked be reflected in the Inventory which the Landlord's agents had presented to, but had not checked over with the Tenant. The Tenant also, however, complained about damp and mould in the Property and commented that it was becoming worse and that the house did not seem to keep any heat in it. The Tenant e-mailed RE/MAX First again on 9 December, asking when someone was going to come out to inspect the mould and damp, as RE/MAX First had not replied to the earlier e-mail of 3 December. The Landlord's agents replied on 9 December that they were waiting for the specialist company Peter Cox to arrange a day and time to look at the issues. The Tenant had sent a further reminder to RE/MAX First on 12 December, expressing her concern that the situation was not being dealt with quickly enough. Peter Cox inspected the Property on 5 January 2015 and, in the Tenant's view, they talked to her of damp as well as condensation. The Tenant stated in an e-mail to RE/MAX First later that day that Peter Cox had confirmed that the bathroom and bedroom of the Property had damp and that there was, in addition, a very bad condensation problem. The written report, however, did not mention damp, but referred to condensation issues in the bedroom and bathroom areas. Peter Cox had recommended and provided a quotation for replacing the extractor fans in the bathroom and kitchen with upgraded fans and the installation of a dehumidifier into affected room areas for a minimum of 14 days and cleaning walls down with bleach and water. On 2 February 2015, the Tenant had again e-mailed the Landlord's agents, concerned that she had not been advised what action the Landlord proposed to take in response to the report. She reminded RE/MAX First that she had painted the bathroom but the mould was coming through again and that wallpaper was peeling off the walls. Later that day, RE/MAX First replied to say that the Landlord was not prepared to replace the fans, but that the Landlord would drop off a dehumidifier. The Landlord had not done that. RE/MAX First had also recommended, prior to the Peter Cox inspection, that the Tenant put in a portable gas heater and the Tenant had done this, but it was consuming a bottle of gas every three weeks or so, was very expensive to run and did not seem to make the Property any less damp. Peter Cox had advised that such heaters create condensation. The Tenant advised the Committee that she had to run the electric/fixd heaters in the Property constantly, as the heat disappeared very quickly when they were switched off.
9. The Committee had noted at the inspection that there were exposed wires and a connector block on the supply cable serving the panel heater in the living room of the Property and, although the application had not mentioned any issues with the electrical system in the Property, the Committee regarded it as appropriate to ask the Tenant about the electrical system, as the Committee was concerned that the exposed wiring noted raised significant safety concerns. The Tenant advised the Committee that a number of the power points had sparked when switched on, so she had stopped using them, and that one of the power points could not be switched to the off position.
10. The Committee had also noted at the inspection that there were no fire or smoke detectors in the Property and the Tenant confirmed that this was the case.
11. The Landlord did not make any written submissions to the Committee and was not present or represented at the hearing.

Summary of the issues

12. The issues to be determined were whether the Property met the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duties imposed on landlords by Section 14(1)(b) of the Act.

Findings of fact

13. The Committee finds the following facts to be established:-
- The tenancy is an assured tenancy.
 - The heating in the Property is provided by electric heaters and by a portable gas heater, purchased by the Tenant.
 - There is evidence of widespread condensation in the Property and of black-spot mould. It is particularly evident on the bedroom walls, where the wallpaper is peeling, and in the built-in wardrobe in that room, but there is also shading on the wallpaper in the living room, at the cold spots where the plasterboard is attached to the wall battens.
 - There does not appear to be insufficient ventilation in the Property.
 - The provisions for space heating in the Property are inadequate. It appears that the original storage heater with convector in the living room has been replaced by a convector panel heater. The heater is, however, covered by a radiator cover, so will be ineffective for heating the room. The heater in the bedroom is in an unsuitable place behind the door. There is a fan heater in the bathroom.
 - The Tenant has, on the recommendation of the Landlord's agents, purchased a portable gas heater for the sitting room. The condensation caused by such a heater will have considerably exacerbated the condensation problems in the Property.
 - There are exposed wires and an exposed connector block on the supply cable of the panel heater in the living room.
 - There are no smoke or heat detectors in the Property.

Reasons for the decision

14. The view of the Committee was that the condensation problems within the Property are the result of the provisions for space heating being inadequate rather than the result of poor ventilation. Peter Cox had recommended that the extractor fans in the kitchen and bathroom be replaced with upgraded fans and the Committee had no issue with that recommendation, but concluded that the condensation could not be eradicated unless the space heating was improved. The Committee decided that the proper way forward was to obtain a report from a suitably qualified electrical contractor as to the level of space heating that would be appropriate for the Property to ensure that it was adequately heated.
15. The Committee was concerned that the evidence of bare wiring at the panel radiator in the living room indicated that the electrical system in the Property was unsafe and, therefore, determined that it should see an up to date Electrical Inspection Condition Report.
16. The Committee was also very concerned by the absence of smoke detectors in the Property and the absence of a heat detector in the kitchen and determined that the Landlord should be instructed to carry out such works as were required to make the Property comply with the Scottish Government's revised statutory guidance on the requirements for smoke detectors in Private Lets and the revised Domestic Technical Handbook.
17. The Committee noted at the inspection that the stone portion of the boundary wall between the side garden of the Property and the adjoining property had a number of sections of stone missing at its base and was concerned. The ground level on the other side was also higher. The stability of the masonry wall could be compromised which could, in time, cause the wall to collapse inwards towards the gable wall of the Property.

The Committee recommends that the Landlord investigates this matter and ensures that appropriate repairs are carried out.

18. Although the items mentioned in paragraphs 15, 16 and 17 above do not form part of the Tenant's application, the Committee has identified them as matters which raise serious potential safety issues for the Tenant and any future occupiers of the Property.

Decision

19. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
20. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
21. The decision of the Committee was unanimous.

Right of Appeal

22. **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

23. 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.
24. **The Landlord's attention is also drawn to Section 28 of the Act, which states that a landlord commits an offence if the landlord 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.**

G. CLARK

Signed
Chairperson

..... Date... 12th July 2015