



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

The Parties:-

Case Reference Number: PRHP/RP/16/0076

Re: Flat 1/2, 10 Annette Street, Glasgow G42 8XZ ("the property")

Land Register Title No: GLA82314

The Parties:-

Mr Tanveer Ahmed, formerly residing at the property ("the tenant")

Corbett Properties Limited, having its registered office at RNLI Perth Ruthvenfield Grove, Inveralmond Industrial Estate, Perth PH1 3GL ("the landlord")

The committee: – Sarah O'Neill (Chairperson); George Campbell (Surveyor Member)

NOTICE TO: Corbett Properties Limited (the landlord)

Whereas in terms of its decision dated 4 May 2016, the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed on it by Section 14 (1) (b) of the Act, and in particular that the landlord has failed to ensure that the house meets the repairing standard in that the property is not wind and watertight and in all other respects reasonably fit for human habitation.

The Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purpose of ensuring that the property meets the repairing standard and that any damage caused by the carrying out of any work in terms of this order is made good before the date specified in this order.

In particular, the Private Rented Housing Committee requires the landlord to replace all windows throughout the property, in order to ensure that the property is wind and watertight and in all other respects reasonably fit for human habitation.

The Private Rented Housing Committee orders that the works specified in this order must be carried out and completed within the period of **two months** from the date of service of this notice.

Rights of Appeal

A landlord or tenant aggrieved by the decision of the 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 any order made in consequence of it is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the order made in consequence of it are to 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 typewritten on this and the preceding page are signed by Sarah Frances O'Neill, solicitor, Chairperson of the Private Rented Housing Committee, at Glasgow on the fourth day of May, Two Thousand and Sixteen before this witness -

P. STEWART

S. O'NEILL

____ witness ____

chairperson

PAUL STEWART name in full

450 ARGYLE STREET Address

GLASGOW

TEAM LEADER Occupation



Determination by Private Rented Housing Committee

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the committee")

Under Section 24(1) of the Housing (Scotland) Act 2006 ("the Act")

Case Reference Number: PRHP/RP/16/0076

Re: Flat 1/2, 10 Annette Street, Glasgow G42 8XZ ("the property")

Land Register Title No: GLA82314

The Parties:-

Mr Tanveer Ahmed, formerly residing at the property ("the tenant")

Corbett Properties Limited, having its registered office at RNLI Perth, Ruthvenfield Grove, Inveralmond Industrial Estate, Perth PH1 3GL ("the landlord")

The committee: – Sarah O'Neill (Chairperson); George Campbell (Surveyor Member)

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) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, and taking account of all the available evidence, determines that the landlord has failed to comply with the duty imposed on it by Section 14 (1) (b) of the Act. The committee therefore issues a Repairing Standard Enforcement Order. The committee's decision is unanimous.

Background

1. By application received on 23 February 2016, the tenant applied to the Private Rented Housing Panel ("the panel") for a determination that the landlord had failed to comply with its duties under Section 14(1) of the Act.
2. In his application, the tenant stated that he believed the landlord had failed to comply with its duty to ensure that the property met the repairing standard as set out in section 13(1) (d) of the Act. His application stated that the landlord had failed to ensure that the house is wind and watertight and in all other respects reasonably fit for human habitation.
3. The tenant made the following complaints in his application form and notification letters to the landlord:
 1. The windows are old and the frames are rotten.
 2. Air and water leak through the windows, and the tenant had made temporary repairs by filling the gaps with paper and packing tape.
 3. The curtain rail in the bedroom is broken. The landlord sent someone to repair this, but they installed a wrongly fitted curtain pole without curtain hooks, which meant that curtains could not be put up, making the room very cold.
4. The tenant confirmed to the panel on 5 March 2016 that he had left the property on 23 February, the day after he submitted the application. He said that he had paid the rent up to the end of February, but had left the property early due to the repairs issues.
5. On 7 March 2016, the President of the panel issued a minute of continuation to a determination under Schedule 2 Paragraph 7(2) of the Act. This stated that, having received confirmation from the tenant that the tenancy had been lawfully terminated with effect from the end of February 2016, the tenant was to be treated as having withdrawn his application in terms of Schedule 2 paragraph 7 (1) of the Act. It then stated that the President considered that the application should be determined on health and safety grounds, due to the nature of the alleged repairs which raise health/safety concerns for any future tenants and occupants and possible issues as to whether the house was wind and watertight. Accordingly, the President had decided to continue to refer the case to a private rented housing committee for determination.
6. The President of the panel wrote to the landlord and its agent on 16 March 2016, notifying them under and in terms of the Act of her decision to refer the application under Section 22(1) of the Act to a private rented housing committee and that an inspection and a hearing would take place on 27 April

2016. Written representations were requested by 6 April 2016. No written representations were received from the landlord or its agent.

The inspection

7. The committee inspected the property on the morning of 27 April 2016. The weather conditions at the time of the committee's inspection were dry and bright. Ms Lesley McLaughlin, Director of Letting at 1-2-let, the landlord's agent, was present at the property during the inspection. The current tenant was also present at the property during the inspection. Photographs were taken during the inspection and are attached as a schedule to this decision.

The property

8. The property is a first floor flat within a tenement estimated to be in the region of 115 years old. The property comprises: a hallway, bed/living room, kitchen and bathroom. The property was let on an unfurnished basis.

The hearing

9. Following the inspection, the committee held a hearing at Wellington House, 134-136 Wellington Street, Glasgow G2 2XL. The landlord was not present or represented at the hearing. The committee was satisfied that, in terms of regulation 15 of the Private Rented Housing Panel (Tenant and Third Party Applications) (Scotland) Regulations 2015, the requirements regarding the giving of notice of a hearing had been complied with. The committee had also reminded Ms McLaughlin about the hearing at the inspection. The committee therefore decided to proceed to make a decision on the basis of the inspection and the other evidence before the committee.

The evidence

10. The evidence before the committee consisted of:

- The application form completed by the tenant, together with a 10 page covering letter, including photographs of the property.
- Registers Direct copy of Land Register title GLA82314.
- Short assured tenancy agreement between Toby Charitable Trust and the tenant in respect of the property dated October 2012, together with inventory and receipt of inventory signed by the tenant, both of the same date.
- Emails between the tenant and Grant and Wilson, Toby Charitable Trust's former letting agent, dated 20 June 2013.

- Various emails between the tenant and 1-2-let, the landlord's current agent, dated between 30 January and 18 February 2016.
- Copy notice to quit from the tenant dated 11 February and addressed to 1-2-let., with written confirmation of receipt by 1-2-let dated 12 February.
- Emails to the panel from the tenant dated 5 and 8 March 2016.
- Annual returns for Corbett Properties Limited dated 23 December 2014 and 23 December 2015 obtained from Companies House.
- The committee's inspection of the property.

Summary of the issues

11. The issue to be determined was whether the property meets the repairing standard as set out in Section 13 of the Act, and whether the landlord had complied with the duty imposed on it by section 14 (1) (b).

Findings of fact

12. The committee made the following findings in fact:

- The tenant entered into a short assured tenancy agreement with Toby Charitable Trust on 1 October 2012 to rent the property for six months from that date.
- As at 29 February 2016, a search in the Land Register showed that the owner of the property was Corbett Properties Limited, which is the registered landlord for the property. Corbett Properties Limited owns a total of 13 flats at numbers 8 and 10 Annette Street, Glasgow.
- The landlord named in the tenancy agreement between the parties is Toby Charitable Trust. As at 23 December 2014, this trust was the sole shareholder in Corbett Properties Limited. As at 23 December 2015, the sole shareholder in Corbett Properties Limited was the Royal National Lifeboat Institution.
- The property is managed on behalf of the landlord by 1-2-let, 104 Bellgrove Street, Glasgow G31 1AA.
- The committee in its inspection carefully checked the outstanding items which were the subject of the complaint. The committee observed the following:
 - i. The windows in all three rooms (the kitchen, the bedroom and the bathroom) appeared to be the original single glazed wooden sash and case windows.

- ii. The windows throughout were in very poor condition, with rotting frames.
- iii. The window frames of both windows in the bedroom were secured with packing tape.
- iv. When opened, the kitchen window came back down easily, suggesting that the weights were inadequate.
- v. The curtain rail in the bedroom had been replaced.

Reasons for decision

- 13. Following its inspection and on the basis of all the evidence before it, the committee determined that the property was not wind and watertight and in all other respects reasonably fit for human habitation.
- 14. The committee observed at its inspection that the windows throughout the property were in very poor condition, and were likely to let in rain and draughts. They were not therefore wind and watertight.
- 15. The curtain rail in the bedroom had been replaced. Ms McLaughlin and the new tenant confirmed at the inspection that curtain hooks had now been provided. The committee determines that the curtain rail is a fixture or fitting provided by the landlord under the tenancy, which is in a reasonable state of repair and in proper working order.

Observation by the committee

- 16. The committee wishes to draw the landlord's attention to two additional matters, which were not included in the tenant's application. The repairing standard includes a requirement under section 13 (1) (e) of the 2006 Act that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. In determining whether a property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, section 13 (5) of the Act states that regard is to be had to any building regulations and any guidance issued by the Scottish Ministers on these matters.
- 17. The current Scottish Government statutory guidance states that there should be at least:
 - one functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes
 - one functioning smoke alarm in every circulation space, such as hallways and landings.
 - one heat alarm in every kitchen

- and all alarms should be interlinked
18. Secondly, the committee notes that, since 1 December 2015, the repairing standard includes a requirement under section 13 (1) (f) of the 2006 Act to ensure that there is satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health. Scottish Government guidance on the provision of carbon monoxide alarms in private rented housing is available at:
- <https://www.scottishlandlords.com/LinkClick.aspx?fileticket=t4YWI-asYF0%3D&tabid=432>
19. This guidance states that private landlords must ensure that a detection system is installed in all dwellings they rent to tenants where there is:
- a fixed combustion appliance (excluding an appliance used solely for cooking) in the dwelling or
 - a fixed combustion appliance in an inter-connected space, for example, an integral garage
 - a combustion appliance necessarily located in a bathroom (advice would be to locate it elsewhere) - the CO detector should be sited outside the room as close to the appliance as possible but allowing for the effect humid air might have on the detector when the bathroom door is open.
20. The guidance also states that it is expected that landlords will have regard to it immediately and ensure CO detection is installed by 1 December 2015. However, if a landlord has a scheduled annual gas safety check it is reasonable to arrange work to install CO detectors at the same time. This will mean that no more than one year from the date of the guidance, all private rented properties should have adequate CO detectors installed.

Summary of decision

21. The committee determines that the landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act, and in particular that the landlord has failed to ensure that the house meets the repairing standard in that the property is not wind and watertight and in all other respects reasonably fit for human habitation
22. The committee therefore makes a Repairing Standard Enforcement Order as required by section 24 (2) of the Act.

Rights of Appeal

23. A landlord or tenant aggrieved by the decision of the committee may appeal to the sheriff by summary application within 21 days of being notified of that decision.
24. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the panel or the committee which made the decision.

Effects of Section 63 of the 2006 Act

25. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

S. O'NEILL

Signed.....

Sarah O'Neill, Chairperson

.....Date...7/5/16.....