



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

Ref: PRHP/RP/16/0212

Re property at: Flat D, 29 Macdowall Street, Johnstone, PA5 8QJ, being the subjects registered in the Land Register of Scotland under Title Number REN94696 ("the Property")

The Parties:-

Miss Lynette Ferguson, residing at Flat D, 29 Macdowall Street, Johnstone, PA5 8QJ, ("the Tenant")

Miss Fiona Brown, Shelter Scotland, having a place of business at Foundations First, 10 Falcon Crescent, Paisley, PA31NS ("the Tenant's Representative")

And

Mr Campbell Whyte, formerly residing at 77 Spateston Road, Johnstone, PA5 0SX and now residing at 9 Macdowall Street, Johnstone, PA5 8QH ("the Landlord")

Decision

The Private Rented Housing Committee ("the Committee"), having made such enquiries as it saw fit for the purpose 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 concerned and, taking account of the evidence led on behalf of the Landlord and the Tenant at the hearing, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Committee consisted of:-

Andrew Cowan – Chairperson

Carol Jones – Surveyor Member

Background

1. By application received by the Private Rented Housing Panel ("the Panel") on 9 June 2016, the Tenant's Representative, on behalf of the Tenant, applied for a determination as to whether the Landlord has failed to comply with the duties imposed by Section 14 (1)(b) of the Act.

2. The application by the Tenant stated that the Tenant considered that the Landlord has failed to comply with his duty to ensure that the Property meets the repairing standard and the Tenant brought forward the following alleged breaches:-
 - (a) Faulty electrical sockets;
 - (b) Faulty light fittings;
 - (c) No working smoke alarm;
 - (d) No carbon Monoxide detector;
 - (e) Blocked drains; and
 - (f) That there is no gas safety certificate for the Property.

3. By letter dated 23 June 2016, the President of the Panel intimated a decision to refer the application under Section 22(1) of the Act to a Private Rented Housing Committee.

4. The Committee served a notice of referral dated 23 June 2016 under Section 22(1) of the Act on the Landlord, the Tenant and the Tenant's Representative.

5. In terms of the said notice of referral, parties were advised that the Committee intended to inspect the Property on 4 August 2016 at 11am and to thereafter hold a hearing in relation to the application, on the same date, at Wellington House Room 1, 134-136 Wellington Street, Glasgow, G2 2XL at 14.30pm.

6. By letter dated 5 May 2016, the Tenant's Representative wrote to the Landlord advising of his duties and responsibilities under the Act and of the work required to the Property to ensure it meets the repairing standard. In this letter the Tenant's Representatives also raised the issue of a lack of a gas safety certificate for the Property and the Landlord's duties in this respect.

7. The Tenant's Representatives included with the application received by the Panel on 9 June 2016 a copy of the letter to the Landlord of 5 May 2016, copy Tenancy Agreement and proof of receipt by the Landlord of their letter dated 6 May 2016, by way of Royal mail track and trace and post office receipt.
8. The Committee proceeded with the inspection on 4 August 2016. The Committee attended at the Property and carried out their visual inspection of the Property. The Tenant the Tenant's Representative were in attendance during the inspection. The Landlord did not attend the inspection of the Property.
9. Photographs were taken during the inspection by the Committee. Copies of the photographs taken by the Committee are attached as a schedule to this report.

The Property

The property comprises a former Local Authority first floor flat situated in a three storey tenement and located in a mixed residential and commercial area in the centre of Johnstone, around 4 miles west of Paisley in Renfrewshire. This tenement was constructed around the 1930's and is of traditional construction with painted roughcast external walls and a pitched re-tiled roof. The flat has electric night storage heating and uPVC double glazed windows. The accommodation comprises a hall, living room, kitchen, bathroom and two bedrooms.

The Inspection

10. At the inspection the Committee noted the following points:-

- (a) The Tenant highlighted a socket in the living room where she was concerned there was a buzzing sound and also the pull cord switch for the lights in the bathroom which also made a buzzing sound when operated. She highlighted that the lights in the bathroom were not working and the light in the kitchen was not working and she said that the landlord had sent an electrician to the property who had carried out an inspection but no works were carried out at that time ;
- (b) The Committee noted there was no provision for the detection of fire or for giving warning in the event of fire within the Property. The Committee further noted that there was no provision for giving warning if Carbon Monoxide is present in a concentration that is hazardous to health in the Property. The Committee noted that the Property does have a gas appliance namely a gas hob located within the kitchen; and
- (c) The Committee noted that the drain for the bathroom sink and the drain for the kitchen sink were slightly slow in draining waste water.

The Hearing

11. The Landlord and the Tenant's Representative attended the hearing and gave evidence to the Committee.

- (a) the Landlord explained that he recognised that certain works were required to bring the Property up to the repairing standard. The Landlord further explained that he had had difficulty in obtaining access to the Property in the past and he gave evidence that the Tenant had not been co-operative in ensuring access would be reasonably available for works to be carried out;
- (b) the Landlord accepted that he had a responsibility to ensure that the electrics within the Property were in a reasonable state of repair and in proper working order. The Landlord

accepted that it would be reasonable for him to provide an Electrical Installation Condition Report in respect of the Property;

- (c) the Landlord accepted that the Property did not currently have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, all as required by current regulations. The Landlord accepted that he required to install appropriate provisions for detecting fires within the Property, all as required by Section 13(1)(f) of the Act;
- (d) the Landlord accepted that, as there was a gas appliance within the Property (gas hob in the kitchen), he had a duty to ensure that the Property has satisfactory provision for giving warning if carbon monoxide was present, all as required by Section 13(1)(g) of the Act. The Landlord accordingly accepted that he was required to install suitable provision for detection of carbon monoxide within the Property;
- (e) the Landlord accepted that he had a duty to provide a current gas safety record in respect of the Property; and
- (f) Whilst the Tenant had complained that the sinks in the kitchen and bathroom of the Property did not drain well, the Committee had not seen any evidence of a failure of the repairing standard in this respect. The Tenant's representative accepted that there was no evidence which would support a failure of the repairing standard in relation to this particular issue.

Decision

12. Having inspected the Property and having considered the evidence which had been provided, the Committee determined as follows:-

- (a) to require the Landlord to commission a certified Electrical Installation Condition Report ("EICR") and Portable Appliance Test ("PAT") on the entire electrical installation of the Property and all electrical appliances and equipment supplied by the Landlord, to be carried out by a suitably qualified and registered SELECT or NICEIC electrical contractor; and to carry out works to rectify any identified issues in these reports and to provide the Committee with a certificate from a suitably qualified and registered SELECT or NICEIC electrical contractor, confirming that the works are completed to ensure that the electrical supplies within the Property meet current safety standards and recommendations and are in a reasonable state of repair and are in proper working order;
- (b) to require the Landlord to carry out such works as are necessary to ensure that there is an acceptable provision for detecting fires and for giving warning in the event of fire or suspected fire, all as required in terms of Scottish Government guidance for the satisfactory provision for the detection and warning of fires and current building regulations;
- (c) to require the Landlord to carry out such works as are necessary to ensure that the Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health, all as required in terms of current Scottish Government guidance for the provision of carbon monoxide detection in private rented housing; and
- (d) to require the Landlord to provide a current gas safety record in respect of the Property by a gas safe registered plumbing and heating engineer, showing that any gas appliance within the Property has been checked, repaired as necessary, and is safe and in proper working order.

13. The Committee accordingly 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(1) of the Act.
14. The decision of the Committee was unanimous.

Right of Appeal

15. 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.

Effect of section 63

16. 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
Andrew Cowan, Chairperson

Date 8 August 2016

L McManus
.....Witness

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA



Schedule of photographs taken during the inspection of Flat D, 29 MacDowall Street, Johnstone PA5 8QJ by the Private Rented Housing Committee on the 4 August 2016.

Reference Number : PRHP/RP/16/0212



Front Elevation



Double socket - Living Room



Single socket - Bedroom



Pull cord - ceiling mounted light in Bathroom



Ceiling mounted light fittings in Bathroom



Electricity consumer unit - Hall



Ceiling mounted fitting for former battery smoke alarm in hall



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Ref: PRHP/RP/16/0212

Re property at: Flat D, 29 Macdowall Street, Johnstone, PA5 8QJ, being the subjects registered in the Land Register of Scotland under Title Number REN94696 ("the Property")

The Parties:-

Miss Lynette Ferguson, residing at Flat D, 29 Macdowall Street, Johnstone, PA5 8QJ, ("the Tenant")

Shelter Scotland, having a place of business at Foundations First, 10 Falcon Crescent, Paisley, PA31NS ("the Tenant's Representatives")

And

Mr Campbell Whyte, formerly residing at 77 Spateston Road, Johnstone, PA5 0SX and now residing at 9 Macdowall Street, Johnstone, PA5 8QH ("the Landlord")

NOTICE TO

Mr Campbell Whyte, residing at 9 Macdowall Street, Johnstone, PA5 8QH
("the Landlord")

Whereas in terms of their decision dated 8 August 2016, the Private Rented Housing Committee ("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 ("The Act") and in particular that the Landlord has failed to ensure that:-

- (a) 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;
- (b) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire; and

- (c) The Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

The Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the Property 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 Committee requires the Landlord to:-

- (a) commission a certified Electrical Installation Condition Report ("EICR") and Portable Appliance Test ("PAT") on the entire electrical installation of the Property and all electrical appliances and equipment supplied by the Landlord, to be carried out by a suitably qualified and registered SELECT or NICEIC electrical contractor; and to carry out works to rectify any identified issues in these reports and to provide the Committee with a certificate from a suitably qualified and registered SELECT or NICEIC electrical contractor, confirming that the works are completed to ensure that the electrical supplies within the Property meet current safety standards and recommendations and are in a reasonable state of repair and are in proper working order;
- (b) carry out such works as are necessary to ensure that there is an acceptable provision for detecting fires and for giving warning in the event of fire or suspected fire, all as required in terms of Scottish Government guidance for the satisfactory provision for the detection and warning of fires and current building regulations;
- (c) carry out such works as are necessary to ensure that the Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health, all as required in terms of current Scottish Government guidance for the provision of carbon monoxide detection in private rented housing;
and

- (d) provide a current gas safety record in respect of the Property by a gas safe registered plumbing and heating engineer, showing that any gas appliance within the Property has been checked, repaired as necessary, and is safe and in proper working order.

The Committee order that the works specified in this Order must be carried out and completed within the period of 4 weeks from the date of service of this Notice.

A Landlord or a 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 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 two preceding pages are executed by Andrew Cowan, chairperson of the Private Rented Housing Committee at Glasgow on 8 August 2016 before this witness:-

Signed
Andrew Cowan, Chairperson

A Cowan

L McManus

..... Witness
Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA

