

The Committee unanimously decided that the landlord had failed to comply with the duties imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the 2006 Act"). The Committee accordingly decided to make a Repairing Standard Enforcement Order (RSEO) as required by Section 24(2) of the 2006 Act

Background:-

1. By application dated 16 December 2010, the tenant applied to the Private Rented Housing Panel ("PRHP") for a determination that the landlord had failed to comply with the duties imposed by Section 14 (1) of the 2006 Act.
2. The application made by the tenant stated that the tenant considered that the landlord had failed to comply with his duty to ensure that the house met the repairing standard as set out in Section 13 of the 2006 Act. A detailed list of defects was contained within the application.
3. The tenant was asked by the clerk to the PRHP to provide evidence that he had notified his landlord of these defects. A letter was sent to the tenant dated 15th December 2010. The tenant then sent a recorded delivery letter to his landlord by means of recorded delivery post on 20th December 2010. Evidence of that was produced to the PRHP.
4. By letters dated 7th January 2011 the President of the Private Rented Housing Panel decided to refer the application under Section 22 (1) of the 2006 Act to a Private Rented Housing Committee ("a Committee").
5. By letters dated 16th February 2011, the Committee served notice of referral on both parties all in terms of the relevant provisions of the 2006 Act. The parties were notified that a hearing would take place on 11th March 2011 at 10 am.

The Inspection

6. The Committee inspected the property on the morning of 11th March 2011. The tenant was present during inspection. The landlord also arrived during the course of the inspection. Mr Mohammed Akbar Khan attended the inspection as an interpreter for the tenant.

Summary of issues

7. The issues complained of in the application before the Committee can be summarised as follows:-
 - The shower in the bathroom was not working correctly
 - There was no hot water to the bath in the bathroom
 - There was work required to the kitchen

- There was a problem with the flooring in the bathroom
- There were problems with the windows to the property
- There was a general problem with dampness throughout the property
- There was a lack of gas central heating within the property

Evidence

8. The evidence before the Committee consisted of:-
 - Application form;
 - Copy Tenancy Agreement
 - Extract of title from the Land Register
 - Copies of relevant correspondence between tenant and landlord

The Hearing

9. On the conclusion of the inspection, the Committee held a hearing within the Moorings Hotel, Motherwell. The tenant was present at the hearing and was again assisted by Mr Mohammed Akbar Khan the interpreter. The landlord was also present at the hearing and was assisted by his nephew Mr Sadiq.
10. At the hearing, it was agreed by all parties that gas central heating had been installed within the property approximately 6 – 8 weeks prior to the hearing. The Committee had noted the presence of the gas central heating system within the property during its inspection. It was accepted by all parties that the central heating system was fully functional and the tenant accepted it had made a big difference to the condition of the property and in particular to the problems with condensation and dampness throughout the property.
11. During the hearing the Committee then asked the parties their views on the various problems which had been noted by the Committee during its inspection.
12. During the inspection, the tenant had complained that the shower was not functioning correctly. He claimed there was not enough pressure within the shower and that the water was not hot enough. The landlord's position was that the pressure and temperature were more than adequate.
13. During the inspection, the tenant had also demonstrated to the Committee that the hot water tap to the bath within the bathroom had seized and no hot water was available from that tap. This was accepted by the landlord during the hearing.

14. During the hearing, the tenant complained that the floor of the bathroom was also a problem within the property. He claimed that the lino on top of the floor did not prevent the water seeping through to the flat below. The landlord indicated that the lino was not there to prevent water seeping through to the flat below and that the tenant should take steps to contain water within the bathroom within the bath or shower.
15. The next matter complained of by the tenant was the condition of the kitchen. The tenant showed the Committee during the inspection that there were a number of broken doors and drawers within the units of the kitchen. There was then some debate between the parties about who had caused the damage and whether the damage had been caused by normal wear and tear. The landlord's view was that the units had been in good condition at the time the tenancy started, the tenant's view was that they had not been in good condition and had deteriorated through the tenancy. It had also been noted during the inspection that the light fitting within the kitchen appeared to have bare wires hanging from the ceiling and again the tenant wished this to be remedied.
16. The tenant had also complained in his application with regard to problems with the windows which he identified during the hearing as being problems with condensation and water dripping from the windows onto the window ledges. He indicated that this problem had now been resolved because of the installation of the new central heating system.
17. The final problem noted during the hearing was a problem with the extractor fan within the bathroom. While it was accepted by parties that the extractor fan had been installed it appeared to the Committee during their inspection that this fan only functioned when the light was switched on in the bathroom and that it had no time delay switch to enable it to continue to work while the light was off.
18. At the conclusion of the hearing the parties were asked to indicate what they wished the Committee to do. Mr Cheema indicated that he had been happy when he moved in but that owing to the lack of a heating system he and his family had suffered constantly because the property had been very cold. Mr Cheema seemed to wish that some element of compensation be awarded to him because of these alleged problems. It was explained to Mr Cheema that the Committee had no powers to deal with historical problems within the property and that we could only deal with the problems, if any, which existed at the time of the hearing.
19. The landlord indicated that his position was that the property was in proper and reasonable condition at the start of the tenancy and that if he had received any complaints he had fixed them. In particular he had installed a gas central heating system because the tenant had

indicated he could not afford electrical bills. He indicated that the other minor issues would be remedied if the tribunal saw fit to order him to do so.

20. At that point the hearing was concluded and the Committee thanked the parties for their attendance. In particular the Committee wished to note their thanks to Mr Khan, the interpreter, for his assistance throughout the inspection and the hearing.

Findings of Fact

21. Having considered all the evidence the Committee found the following facts to be established:-
- a) The subjects of let comprised a first floor flat located within a three storey block. The block forms part of a local authority development in Motherwell comprising of three storey blocks and multi-storey towers. The property itself consists of living room, three bedrooms, kitchen, bathroom and hallway. The property is approximately 40 – 50 years old. The property has been sold under the Right to Buy legislation. The property is in an area which is mainly residential but is well situated for local amenities such as local shops, transport and schools. It is reasonably close to Motherwell Town Centre.
 - (b) The tenant occupies the property with his wife and three of his children. The children are aged 15, 11 and 10.
 - (c) The property internally is generally in a good state of repair.
 - (d) Within the kitchen, the kitchen units have a number of broken doors and drawers. The ceiling light fitting is insecure and potentially unsafe.
 - (e) Within the bathroom, the hot water tap to the bath has seized. The shower functions within normal levels and the pressure and temperature of the water is at a reasonable level. It was not securely fixed to the wall. The extractor fan requires to have a time delay attached to it to enable it to function correctly.
 - (f) A gas central heating system has been installed within the property consisting of a boiler with a radiator in every room. The heating system appeared to be functioning properly during the Committee's visit. The heating system was in proper working order and in a reasonable state of repair.

Reasons for Decision

- The Committee considered the various issues set out above and determined that the property did not meet the repairing standard as set out in the Act. The Committee took the view that the property was now in a generally reasonable state of repair but that there were a variety of minor matters which required attention. The Committee were satisfied that the installation of the gas central heating system had dealt with the main problems complained of by the tenant, namely the allegations of dampness and condensation within the property. The Committee however took the view that the broken doors and drawers in the kitchen, the light fitting within the kitchen, the extractor fan within the bathroom, the fixing of the shower to the wall and the seized hot water tap within the bathroom all failed to meet the appropriate standard in terms of the repairing standard and the Committee accordingly determined to make a RSEO.

22. The decision of the Committee was unanimous.

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 PRHP of the Committee which made the decision.

Effects of Section 63

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.

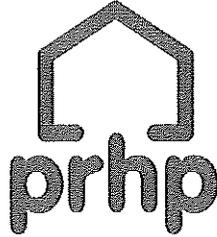
26. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **J Bauld** Date *4 April 2011*
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James Bauld, Chairperson

Signature of Witness..! **R King** Date *4 April 2011*

Name, address and occupation of the witness (please print):- *ROBINA KING*
LEGAL SECRETARY
7 West George Street
Glasgow, G2 1BA



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Case Reference Number: PRHP/ML/177/10

Re:- Property at 167 Airbles Street, Motherwell, ML1 1UH ("**the property**")

Land Register Title number:- **LAN82971**

The Parties:-

Mr Safraz Ahmed Cheema, residing at 167 Airbles Street, Motherwell, ML1 1UH ("**the tenant**")

And

Mr Mohammed Nasir residing at 11 Argyle Wynd, Motherwell, ML1 4GJ ("**the landlord**")

Notice to Mr Mohammed Nasir, residing at 11 Argyle Wynd, Motherwell, ML1 4GJ ("the landlord**")**

Whereas in terms of the decision dated 4 April 2011 the Private Rented Housing Committee have determined that landlord has failed to comply with the duty imposed by Section 14 (1) of the Housing (Scotland) Act 2006 and in particular the landlord has failed to ensure that:-

- (a) 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,
- (b) 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 Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purpose of ensuring that the house concerned meets the repairing standard and that any damage cause by the carrying out of the works in terms of this Order is made good. In particular the Private Rented Housing Committee requires the landlord to:-

- Carry out repairs to the kitchen units within the kitchen to repair broken doors and drawers

- Carry out repairs to the light fitting within the kitchen to ensure that it is safe and fit to use and that exposed wires are concealed.
- Effect repairs to the extractor fan within the bathroom to install a time delay mechanism
- Repair the hot water tap within the bath to ensure it is in proper working order
- Carry out repairs to affix securely the shower unit within the bathroom to the wall

The Private Rented Housing Committee orders 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 the Notice.

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. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the PRHP or the Committee which made the 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. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **J Bauld**

Date *4 April 2011*

James Bauld, Chairperson

Signature of Witness.... **R King**

Date *4 April 2011*

Name: *ROBINA KING*
LEGAL SECRETARY

Address: 7 West George Street, Glasgow, G2 1BA