



**Statement of decision of the Housing and Property Chamber  
under Sections 26(2) and 28 (1) of the Housing  
(Scotland) Act 2006**

**Chamber Ref: PRHP/RP/16/0069**

**Re: Property at 44/3 Double Hedges Park, Edinburgh EH16 6YN (“the Property/the house”)**

**The Parties:-**

**Ms Louise Campbell, residing at 44/3 Double Hedges Park, Edinburgh EH16 6YN (“the Tenant”) and**

**Mr Christopher Lane, residing sometime at 27 Mortonhall Park Avenue, Edinburgh EH17 8BP and now at Yew Wood Cottage, Penicuik, Midlothian EH26 0NX (“the Landlord”)**

**Decision**

**The Tribunal, having made such enquiries as it saw fit, determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order in respect of the Property, made on 25 April 2016, and that the failure to comply should be notified to the local authority and the police.**

**Background**

1. By application received on 18 February 2016 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 in all other respects reasonably fit for human habitation,
  - (b) 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,
  - (c) 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,
  - (d) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order,
  - (e) any furnishings provided by the Landlord under the tenancy are capable of being used for the purpose for which they are designed,
  - (f) the house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire, and

- (g) the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. By letter dated 24 February 2016 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 Committee comprised George Clark (chairman) and Susan Napier (surveyor member).
  5. The Private Rented Housing Committee inspected the Property on the morning of 25 April 2016. Following the inspection of the Property the Private Rented Housing Committee held a hearing at George House, 126 George Street, Edinburgh EH2 4HH.
  6. Following the hearing, the Committee made a Repairing Standard Enforcement Order in respect of the Property. The Order required the Landlord:-
    - to instruct a Gas Safe Engineer to carry out such repairs as are necessary to make the boiler function properly for the provision of heating and hot water.
    - to exhibit to the Committee a current Gas Safety Certificate in respect of the Property, covering the boiler, the gas cooker and the carbon monoxide detector located on the wall of the kitchen.
    - to overhaul the windows in the living room of the Property to ensure they open and close properly and are draught-proof and to replace the fixed centre pane of the window with a new double glazed pane.
    - to carry out such repairs as are necessary to ensure the extractor fan in the bathroom of the Property is in proper working order.
    - to carry out such fungicidal treatment work as is necessary to remove the black mould in the bathroom of the Property and thereafter to redecorate the affected areas.
    - to install in the Property interlinked, mains-wired smoke detectors and in the hallway and living room and a heat alarm in the kitchen, all of which comply with the revised Domestic Technical Handbook and the Scottish Government's guidance on the requirements for smoke alarms and
    - to provide evidence to the Committee that the carbon monoxide detector in the Property complies with the Scottish Government Guidance for the Provision of Carbon Monoxide Alarms in Private Rented Housing, which came into effect on 1 December 2015 or to replace it with one that does so comply.
  7. The surveyor member of the Committee attempted to reinspect the Property on 27 June 2016. The Landlord was present at the Property, but said that he was not aware that a reinspection had been arranged and told the surveyor member that he had not received intimation of the Repairing Standard Enforcement Order. He had moved 12 years ago from the address that had been used by the Private Rented Housing Panel and told the surveyor member that he had never received any correspondence about the application, the inspection and hearing, the Repairing Standard Enforcement Order or the reinspection. He gave the surveyor member his current address. He stated that the Tenant no longer lived in the Property.
  8. The surveyor member noted that the Property was unoccupied and was in the process of being cleared out and redecorated and that the kitchen had been removed in readiness

for replacement. The surveyor member was of the view that the works, when completed, would include everything required by the Repairing Standard Enforcement Order.

9. The Committee was of the view that there was doubt as to whether the Landlord was aware of the Repairing Standard Enforcement Order and that, accordingly, it would be equitable in the circumstances to allow the Landlord a further period of time within which to carry out the work required by the Order. Accordingly, the Committee determined that the Repairing Standard Enforcement Order should be intimated to the Landlord, who should then be given a period of 4 weeks from the date of its intimation within which to carry out the required works. A Direction to that effect was issued to the Parties.
10. The surveyor member of the Committee attempted to reinspect the Property on 9 September 2016 and on 10 October 2016, but was unable on either occasion to obtain access. She reinspected the Property on 7 November 2016 and reported to the Committee that a new central heating boiler had been installed, the Property had been redecorated and the black mould removed. Wiring had been installed for smoke detectors and a heat detector in the kitchen, but the detectors themselves had not been fitted. An extractor fan was in the Property but had not as yet been fitted. The Committee had not had sight of a Gas Safety Certificate and there was no carbon monoxide detector in the Property.
11. The jurisdiction of the Private Rented Housing Panel transferred to the Housing and Property Chamber of the First-tier Tribunal for Scotland ("the tribunal") on 1 December 2016 and the Chairman and surveyor member of the Committee became the Legal Chair and Ordinary Member of the tribunal. This Decision is, therefore, a decision of the tribunal.
12. The tribunal attempted to reinspect the Property on the morning of 30 January 2016, but was unable to gain access, as the Landlord was not present or represented. The Tribunal members were George Clark (Legal Chair) and Susan Napier (Ordinary Member)
13. Following the attempted reinspection, the tribunal held a hearing at Riverside House, 502 Gorgie Road, Edinburgh. The Landlord was neither present nor represented at the hearing. The Tenant, having vacated the Property, was no longer a party to the proceedings.
14. The tribunal members had been able to see through the open letterbox of the Property that it appeared that work was still ongoing. From the outside, the tribunal members could see that the centre pane of the living room window had not been replaced. The tribunal noted that it had not seen a current Gas Safety Certificate and was unable to ascertain whether any of the other items in the Repairing Standard Enforcement Order which had been outstanding at the date of the reinspection on 7 November had been carried out. The tribunal accordingly determined that the Landlord had failed to carry out the works required by the Order and that this failure should be notified to the local authority and the police.
15. The tribunal determined further that it was unable to make a Rent Relief Order, as the Tenant had vacated the Property.
16. The decision of the Committee was unanimous.

### **Right of Appeal**

**In terms of Section 46 of the Tribunals (Scotland) Act 2014, a party aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

G Clark

Signed

Date... 22 February 2017

Chairperson