



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

Re: Flat 0/1, 1187 Pollokshaws Road, Glasgow, G41 3NG being the subjects registered in the Land Register of Scotland under Title Number GLA 140868 ('the Property')

The Parties:-

Paul Forest residing at Flat 0/1, 1187 Pollokshaws Road, Glasgow, G41 3NG ('The Tenant')

Fintree Limited incorporated under the Companies Acts and having their registered office at 270 Dumbarton Road, Glasgow ('The Landlords')

Case Ref No: PRHP/RP/16/0103

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the Property, determined that the Landlords have not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. The Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords have 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 he considered that the Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. He advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation.

In particular the application stated that:-

'Since we moved in on the 18th January 2016, we have been unable to be comfortably warm in our flat. On an average day with the thermostat at full, we can reach a maximum temperature of 14 degrees celcius. This is costing us £40 a week which would be fine if we could get warm in the flat but presently we are paying this while still in 2 layers and wrapped in blankets. At the time of writing this we have been in the flat for 8 weeks and spent a total of £320 on gas alone. We have raised our concerns with Orbis many times only to be told 'its winter' which we feel is ridiculous since a tenant should have the option of being warm regardless of the season. There is a draught throughout the flat and visible gaps in the front door, a hole in the living room double glazing and ice cold floors throughout the property. We asked for an inspection of the basement and were told by Orbis that there was no thermal only sound insulation, which is resulting in cold floors. We were then told that they would come around to measure a 2nd radiator for the living room and fit carpets to help with the problem. Since then we have been told that neither of these were going to happen as the radiator was 'more than adequate for the size of the room' and 'the carpet will not physically help the heat retention other than psychologically.'

As we are getting no help from Orbis, we have had to spend a large amount of our own money on trying to reduce heat loss, we have bought radiator reflectors and draught excluders.

Both of us have been sick on many occasions since moving in due to the cold conditions of this property. We both work long hours outdoors and don't have a warm flat to come back to. It is affecting our health and wellbeing.

As we are unable to heat the flat sufficiently, we are noticing damp mouldy patches are getting worse. We have pointed this out to Orbis and again they have done nothing to help us even although we have told them that one of us has asthma which is being aggravated by these damp, cold conditions.

The property does not retain heat. With the boiler on full and paying out £40 a week on gas you would expect to notice a difference. This makes us believe heat is escaping and the property is not wind tight.'

In terms of the work required the application stated that:-

'2nd radiator in living room, double glazing repaired, gaps around front door filled in, proper insulation, carpeting throughout.'

3. The President of the Private Rented Housing Panel, having considered the application, comprising documents received between 17th March 2016 and 29th March 2016, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee.

4. The Committee members were Jacqui Taylor (Chairperson) and George Campbell (Surveyor Member).

5. 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, dated 21st April 2016.

6. The Committee attended at the Property on 5th July 2016. The Tenant was present. The Landlords were represented by Ross Yates, a Director of Orbis Limited, the Letting Agency employed by the Landlords.

The Property is a two bedroom flatted property located on the ground floor of a three storey traditional tenement flat. There is no attic in the Property. The Committee inspected the alleged defects and found as follows:-

- The Property does not get sufficiently warm.

The Tenant confirmed that the gas central heating system worked properly it provided adequate hot water and the radiators heated up properly. The Committee noted that there was a radiator in each apartment of the Property. Ross Yates confirmed that there is an Energy Performance Certificate ('EPC') and a Gas Safety Certificate for the Property. He agreed to bring them to the hearing.

- A defective double glazed unit.

Ross Yates advised the Committee that the cracked window pane at the front of the Property had been replaced recently. The Committee examined the windows in the living room and confirmed that they were in proper working order.

- There are gaps around the front door.

The Committee noted that a draft excluder had recently been fitted to the front door of the Property and there were no sign of the gaps referred to by the Tenant.

The Committee also noted that there was one hard wired smoke detector in the hall of the Property and a carbon monoxide alarm had been installed in the kitchen.

Photographs were taken during the inspection and are attached as a Schedule to this report.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Wellington House, 134- 136 Wellington Street, Glasgow, G2 2XL.

Ross Yates attended the hearing on behalf of the Landlords. The Tenant did not attend the hearing and was not represented.

In relation to the matters detailed in the Tenant's application Ross Yates advised:

- The Property does not get sufficiently warm.

That the central heating was working properly and he emphasised that the Tenant's complaint had been that the heat that was generated did not remain in the Property. He provided the Committee with the Energy Performance Certificate ('EPC') and the Gas Safety Certificate for the Property. He pointed out to the Committee that the EPC had stated that it was assumed that there is no underfloor insulation. He explained that this assumption was incorrect. He gave the Committee photographs of the subfloor area which showed that plywood sections had been fitted between the joists and insulation had also been installed. He reflected that no further insulation could be added to the subfloor of the Property.

He also explained that he had recommended to the Tenant that he run the heating system at a continuous lower temperature instead of turning the system on for short periods of time at a higher temperature. If the Tenant were to do this the fabric of the Property would warm up. He also explained that no previous tenants had complained about the temperature in the Property.

- A defective double glazed unit.

That the cracked window pane at the front of the Property had been replaced recently.

- There are gaps around the front door.

The fitting of the draught excluder to the front door of the Property had resolved the problem of draughts entering the Property through the gap underneath the front door.

Summary of the issues

The issues to be determined are:-

9.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

Whether the condition of the front door, the double glazed window in the living room and the extent of the heating in the Property results in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

10. The Committee determined:

10.1: The central heating system was in proper working order. This had been confirmed by the Tenant and the terms of the Gas Safety Certificate (dated 12th August 2015) which stated that the boiler had been serviced and was safe to use. The Committee reflected that there is no specific provision in the Repairing Standard in relation to required levels of insulation. However the separate, minimum standard of the Tolerable Standard requires properties to have sufficient thermal insulation. For the purposes of the Tolerable Standard the presence of roof insulation is used as an indicator of satisfactory thermal insulation. Notwithstanding this fact the guidance recognises that it is not possible to fit roof insulation in flats which are not on the top floor. The Committee acknowledged that as this Property is not a top floor flat the thermal insulation provisions of the Tolerable Standard do not apply to this Property. The Committee also acknowledged that the Property will be more difficult to keep warm than other similar properties

as there is no storm door. However they determined that this fact did not prevent the Property from being reasonably fit for human habitation, as required by the Repairing Standard.

10.2: The repair to the living room window had been satisfactorily carried out resulting in the window being wind and water tight.

10.3: The installation of the draught excluder to the front door of the Property resulted in the door being wind and water tight.

Decision

11. The Committee accordingly determined that the Landlords had not failed to comply with the duties imposed by Sections 13 (1)(a) of the Act, as stated.

12. The decision of the Committee was unanimous.

13. The Committee separately advised the Landlords agent that there should be an additional hardwired smoke alarm in the living room and a hard wired heat detector in the kitchen. However as the provision of the smoke alarms was not part of the original application the Committee were unable to make a Repairing Standard Enforcement Order in relation to them.

Right of Appeal

14. 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

15. 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
Chairperson

J Taylor

..... Date 11th July 2016

**Photographs taken at Flat 0/1, 1187 Pollockshaws Road, Glasgow G41 3NG on 5 July 2016
(PRHP/RP/16/0103)**



01 - Front elevation (ground left)



02 - Hall - hard-wired smoke detector



03 - Kitchen - carbon monoxide detector



04 - Main entrance door - draught-excluder fitted



05 - Living room - front right, lower pane renewed

11/7/16
J Taylor