



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Case Reference Number: PRHP/G33/165/10

Re:- Property at 51 Bellrock Crescent, Cranhill, Glasgow, G33 3HH ("**the property**")

Land Register Title number:- **GLA120997**

The Parties:-

Miss Ann Marie Craig residing at 51 Bellrock Crescent, Cranhill, Glasgow, G33 3HH ("**the tenant**")

And

Edward Smith residing at 24 The Park, Hunters Run, Clonee, Dublin, ("**the landlord**"), represented by Mr Mirza Hussein of Easy Let, 789 Shettleston Road, Glasgow, G32 7NN

Notice to Edward Smith residing at 24 The Park, Hunters Run, Clonee, Dublin, and his agents, Easy Let, 789 Shettleston Road, Glasgow, G32 7NN ("the landlord**")**

Whereas in terms of the decision dated 16 February 2011 the Private Rented Housing Committee have determined that landlords have failed to comply with the duty imposed by Section 14 (1) of the Housing (Scotland) Act 2006 and in particular the landlords have 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) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

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 caused by the carrying out of the works in terms of this Order is made good. In particular the Private Rented Housing Committee requires the landlords to:-

- Carry out repairs to the wash hand basin within the bathroom to secure it to the wall
- Repair or replace the bath panel
- Carry out repairs to the threshold between the bathroom door and the hall to remove the trip hazard
- Carry out repairs to all units within the kitchen in order to ensure that they are safe and fit to use
- Repair the extractor hood above the cooker
- Repair the window lock in the living room window
- Repair the light fitting within the living room to make it secure and safe to use
- Repair the light fittings on the walls in the hall to make them safe and in particular to cover the exposed bare electrical wires
- To fit a hard wired smoke alarm
- To produce report from a Gas Safe registered engineer confirming that all gas appliances within the property comply with the Gas Safety (Installation and Use) Regulations 1998
- Carry out repairs to the front bedroom door to repair the damage to the hinge
- Repair the front steps to make them safe to use.

The Private Rented Housing Committee orders that the works specified in this Order must be carried out and completed within the period of eight 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**
James Bauld, Chairperson

Date *16 February 2011*

Signature of Witness.. **G Williams**

Date... *16/2/11*

Name: Gillian Williams

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

Designation: Senior Court Administrator



Determination by Private Rented Housing Committee

Statement of Reasons for Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

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

Case Reference Number: PRHP/G33/165/10

Re:- Property at 51 Bellrock Crescent, Cranhill, Glasgow, G33 3HH ("**the property**")

Land Register Title Number:- **GLA120997**

The Parties:-

Miss Ann Marie Craig residing at 51 Bellrock Crescent, Cranhill, Glasgow, G33 3HH ("**the tenant**")

And

Edward Smith residing at 24 The Park, Hunters Run, Cloness, Dublin, ("**the landlord**"), represented by Mr Mirza Hussein of Easy Let, 789 Shettleston Road, Glasgow, G32 7NN

The Committee comprised:-

Mr James Bauld	- Chairperson
Mr Michael Links	- Surveyor member
Mr Tom Keenan	- Housing member

Decision

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 proceeded to make a Repairing Standard Enforcement Order (RSEO) as required by Section 24(2) of the 2006 Act

Background:-

1. By application dated 5 October 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 had provided evidence of notification of these defects to the landlord at the address given in the Tenancy Agreement. Notification had been made by recorded delivery mail to the landlord's agent. Proof of postage of that letter dated 2 November 2010 was produced by the tenant.
4. By letter dated 24 November 2010, 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. On 30 December 2010, the Committee served notice of referral on both parties all in terms of the relevant provisions of the 2006 Act. The notice of referral to the landlord was served upon his agents at Easy Let, 789 Shettleston Road, Glasgow, G32 7NN. In terms of paragraph 13 of the PRHP (Application and Determinations) (Scotland) Regulations 2007, service of any formal communication upon the known agent of a party is deemed to be service upon that party.

The Inspection

6. The Committee inspected the property on the morning of 27 January 2011. The tenant was present during inspection. The landlord was represented during the inspection by Mr Mirza Hussein from Easy Let.

Summary of issue

7. The issues complained of the application before the Committee can be summarised as follows:-
 - The property was in a general state of disrepair
 - The front door and lock did not work properly
 - The steps leading to the front door were unsafe
 - The window lock in the living room did not work
 - The radiator in the hall was not working
 - There was dampness within the property.
 - The shower door was broken
 - The toilet door was broken
 - The threshold between toilet and hall was a tripping hazard
 - The shower did not work
 - The front bedroom door hinge was broken and loose
 - The light fitting within the living room was loose
 - The sink within the kitchen had become detached from the wall
 - The wash hand basin within the bathroom was detached from the wall
 - The kitchen units were in a poor state of repair
 - The boundary fence in the rear garden was broken
 - The fireplace within the living room was loose and not attached to the wall
 - The wall lights in the hall were unsafe

The Evidence

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

The Hearing

9. On the conclusion of the inspection, the Committee held a hearing at the offices of the Private Rented Housing Panel in Glasgow. The tenant was present at the hearing. The landlord was neither present nor represented by the agent who had attended at the inspection.
10. At the hearing, the tenant explained that she had moved into the property in August 2007. When she had moved in she was aware that various repairs were required but she was told these would be done. She indicated that she had always dealt with Easy Let as the agents for the landlord and had made constant reports to them of the problems within the property. She indicated that she had been in the property for nearly 3 years without a functioning hall radiator. She indicated that she was not able to use the front door to the property until it was repaired on 21 December 2010. However at the date of the inspection and hearing, again she could not use the front door because works were now being carried out to repair the steps which led to the front door. Access to the property was gained via the rear door which led into the kitchen.
11. With regard to the outstanding repairs the tenant indicated that within the toilet of the property, she wished the wash hand basin to be fixed to the wall. She also wished the gap on the floor at the door to be fixed as it was a clear trip hazard. The bath panel was broken and loose.
12. Within the kitchen, the tenant indicated that a number of the kitchen units were broken. Doors were hanging off. Drawers were nailed shut and did not work. She indicated that the work top at the sink had been replaced but to a very poor standard and that the workmen who had attended had simply put back the old sink.
13. The tenant complained that the property suffered from dampness. She accepted that during the inspection, the surveyor member of the Panel had taken dampness meter readings and had shown her that the readings all appeared to be within the generally acceptable levels.
14. The tenant indicated that a window lock on the front living room window was still broken.
15. The tenant indicated to the Committee that the radiator in the hall had only been replaced recently but that she had been advised that this radiator had to be left on 24 hours a day and had no individual thermostatic control. She felt that this radiator was almost too hot to touch and that it created a safety risk to her and her young children who resided in the house with her.
16. The tenant also indicated that the light fittings on the ceiling in the living room and on the wall in the hall were both unsafe. The living room light fitting was very loose and appeared not to be secure. The wall lighting in the hall had recently been replaced but bare wires were still showing. The tenant was concerned with regard to the safety of these fittings.
17. The tenant indicated that a battery operated smoke alarm had been installed in the property but that it had never worked. She indicated that a new battery operated smoke alarm had recently been installed. She indicated that she believed that the smoke alarm installed should be wired into the mains. She pointed out that her uncle who is a tenant of Glasgow Housing Association had had a smoke alarm installed in his house in 2007 and it had been wired into the mains.
18. The tenant indicated that she paid rent of £500 per month and that she occupied the property with her 3 children who were aged 13, 4 and 2.
19. The tenant denied that she had caused any damage to the kitchen units as claimed in the written submissions from the landlord. She indicated that the kitchen units had been in a state of poor repair when she moved into the property. The tenant accordingly wished the Committee to make an order requiring the landlord to carry out the necessary repairs to the property.

20. The Committee thereafter concluded the hearing and discussed the evidence in order to determine their decision.

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 lower cottage flat located within the Carntyne area of Glasgow. The flat forms part of a 4 in a block property and consists of a living room, 3 bedrooms, kitchen, bathroom and hall. The property is approximately 60-70 years old. The property is a former local authority house which had been sold under the Right to Buy legislation. The property is in an area which is residential and which is well situated for local amenities such as shops, transport and schools.
 - (b) The tenant occupies the property with her 3 children. The property is generally in a poor state of repair, both internally and externally.
 - (c) Within the living room of the property, the window lock is broken and does not work. The ceiling light fitting is insecure and potentially unsafe.
 - (d) Within the hall, the wall lights have exposed wiring which is a potential safety risk.
 - (e) Within the kitchen of the property, the kitchen units and fittings are generally in a very poor state of repair. Several doors require to be replaced and re-hung. There are drawers within the kitchen units which are nailed shut and broken. The extractor hood above the cooker is not functioning.
 - (f) Within the bathroom, the wash hand basin was not secured to the wall and was unsafe. The bath panel required to be repaired or replaced. The gap between the toilet door and the hall was a trip hazard and requires to be filled, covered or levelled.
 - (g) There is no smoke alarm within the property which meets the current regulations. The smoke alarm within the property should be hard wired and not battery operated.
 - (h) The steps leading to the front door of the property are unsafe and require to be repaired. It appeared as though these repairs were in hand at the date of the inspection although no evidence was produced to the Committee with regard to any completion date.
 - (i) No Gas Safety Certificate in terms of the Gas Safety (Installation and Use) Regulations 1998 was available for the Committee to view. The Committee were concerned that the gas appliances within the property may not comply with the Regulations.
 - (j) The internal pass door to the front bedroom was in a poor state of repair and appeared to have a broken hinge.

Reasons for Decision

22. 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 in a poor state of repair and that a variety of matters required attention. The Committee were satisfied that the tenant had reported these matters to the landlord and that the landlord had failed to carry out the necessary works within a reasonable period of time. The Committee were accordingly of the view that the property failed to meet the repairing standards and the Committee accordingly determined to make a RSEO.

23. The decision of the Committee was unanimous.

Rights of Appeal

24. 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.
25. 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

26. 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.
27. 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.

Signature **J Bauld**

Date 16 February 2011

James Bauld, Chairperson

Signature of Witness.. **G Williams**

Date 16/2/11

Name: Gillian Williams

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

Designation: Senior Court Administrator