



**Statement of decision of the Private Rented Housing
Committee under Section 26(2) of the Housing
(Scotland) Act 2006**

PRHP Ref: RP/16/0058

Re: Property at 44 Millhall Court, Plains, Airdrie ML6 7GE ("the Property")

Title No: LAN 201276

The Parties:-

Vicky Tulika ("the Tenant")

Brendan Kearns 55 Laurel Heights, Banbridge, County Down; Brendan Kearns c/o Rite Home Ltd, 350 Glasgow Harbour Terraces, Glasgow, G11 6EG ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order in relation to the property, and taking account of the findings from the inspection of the house on 8 July 2016 and the responses to the re-inspection report from the Tenant and the agent for the Landlord, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Committee comprised:-

Mrs Josephine Bonnar, Chairperson

Mr Mike Links, Surveyor Member

Background

- 1. By application received on 12 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:- 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; any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order; and, any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed. Specifically the Tenant complained that she had not been provided with a current gas safety certificate, that there was no flooring in the kitchen, that the blind in the lounge was not hanging at the window, that there was no lighting in the common hallway and stairs, that the satellite dish at the property was not working and that there were cracks on the walls. She also stated that she had not been provided with an inventory of contents at the time she signed the lease, or subsequently.

3. 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 Tenants on 22 March 2016.
4. Following service of the Notice of Referral neither the Landlord nor the Tenant made written representations. Both confirmed that they would attend the Hearing.
5. The Private Rented Housing Committee inspected the property on the morning of 5 May 2016. The Tenant and the Landlord's Agent Colvil Johnstone were present during the inspection.
6. Following the inspection of the property the Private Rented Housing Committee held a hearing at Airdrie Business Centre, Chapel Street, Airdrie. The Tenant and the Landlord's Agent were both present and gave evidence.
7. Following the inspection and hearing, the Committee made a Repairing Standard Enforcement Order in respect of the property. The Order required the Landlord i) To attach the living room blind to the living room window or arrange for a new blind to be installed, ii) To instruct a suitably qualified electrician to investigate the cause of the defective lighting in the communal hallway and stairs and to carry out such repairs as are required to rectify the defects and ensure that the lighting is in proper working order, iii) To investigate the cause of the defect in the communal satellite dish on the roof of the property and carry out such repairs as are required to rectify the defect. Alternatively, to provide the tenant with a replacement satellite dish or similar appliance which will enable the tenant to access satellite television, and iv) To provide the Tenant with a current gas safety certificate from a Gas Safe registered engineer. The Committee ordered that the works specified in the Order must be carried out and completed within the period of four weeks from the date of service on the Parties of the Order.
8. The Order was served on the Parties.

9. The Surveyor member of the Committee re-inspected the property on 8 July 2016. The Tenant was present. A copy of the re-inspection report is attached to this decision. The Surveyor member reported to the Committee that item 1 of the Repairing Standard Enforcement Order had been completed satisfactorily. The Tenant advised the Surveyor member that she had been provided with a current gas safety certificate which she would send to the PRHP for inspection by the Committee. This was provided on 9 July 2016 and found to be satisfactory. The Surveyor member noted that the lighting in the communal hallway and stair is still defective and that the Tenant still has no access to satellite television.
10. A copy of the re-inspection report was sent to the Landlord and Tenant and both parties were given an opportunity to comment on same. The Tenant confirmed that she agreed with the findings of the surveyors report and that the proper lighting in the hallway is a necessity. She indicated that she is of the view that a rent relief order should be considered by the Committee reducing the rent by 50%. The agent for the Landlord submitted a letter stating that there is no factor for the property and that the Landlord is effectively bankrupt and therefore cannot fund the repairs. The letter indicated that the repairs will only be carried out if the other owners in the block attend to same. No indication was given that this was likely to occur. The agent further indicated that the issue of a rent relief order would probably lead to a notice to quit being served on the Tenant.

Reason for decision

11. The Committee considered the responses to the re-inspection report. It noted that items 1 and 4 in the order have been complied with. With regard to item 2 the Committee agreed with the Tenant that the lack of lighting in the communal hallway and stairs is a serious matter which poses a significant health and safety risk. The problem with the defective satellite dish has also not been attended to as required by part 4 of the Order. The explanation from the Landlord that he is not in a position to fund the repairs is not a reasonable one. It appears from the letter provided that the Landlord has taken no action with regard to the outstanding matters and does not intend to do so. The Committee concluded that the work required in part 2 and 3 of the Order had not been completed and therefore that it would not be appropriate to discharge the Order.
12. The Committee considered whether or not to issue a rent relief order and concluded that the outstanding repair issues are significant and materially affect the use of the property by the Tenant. The Committee concluded that an order reducing the rent by 25% was appropriate in the circumstances.

Decision

13. The Committee accordingly determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order made on 21 May 2016 and that the Order should remain in force. The Committee further determined that a Rent Relief Order should be made in relation to the property in terms of section 27 of the Act.
14. The Committee proceeded to make a Rent Relief Order in terms of section 27
15. The decision of the Committee was unanimous

Right of Appeal

16. **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

17. 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.

J. BONNAR

Signed
Josephine Bonnar, Chairperson

.....Date 14 August 2016



PRHP Re-inspection report



Property: 44 Millhall Court, Plains, Airdrie, ML6 7GE

Ref no: PRHP/RP/16/0058

Surveyor: Mike Links

In Attendance: Miss Vicky Tulika (Tenant)

Weather: Dry and overcast.

Access: I re-inspected the property on Friday, 8th July, 2016 at 10am

RSEO: The following works are required by the RSEO following on from the Inspection and Hearing on 5th May 2016.

Items (2) and (3) in the RSEO remain outstanding at the date of the re-inspection.

Recommendation:

Once the re-inspection report is forwarded to the Landlord and Tenant for comment the committee will then decide what further action is required.

Mike Links

Surveyor Member

Private Rented Housing Panel

Date: 8th July 2016



Rent Relief Order

Ordered by the Private Rented Housing Committee

PRHP Ref: PRHP/RP/0058

Re: 44 Millhall Court, Plains, Airdrie ML6 7GE (hereinafter referred to as "the house")

The Parties:

Vicky Tulika ("the Tenant")

Brendan Kearns 55 Laurel Heights, Banbridge, County Down; Brendan Kearns c/o Ritehome Ltd, 350 Glasgow Harbour Terraces, Glasgow ("the Landlord")

NOTICE TO ("the Landlord")

Whereas in terms of their decision dated 14 August 2016, the Private Rented Housing Committee ("the Committee") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the house made by the Committee.

The Committee determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 25% of the rent which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under section 64 of the said Act.

A landlord or a 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.

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 Rent Relief Order will take effect 28 days after the date on which the appeal is abandoned or the decision is confirmed.

In witness whereof these presents type written on this page are executed by Josephine Bonnar, solicitor, chairperson of the Private Rented Housing Committee at Motherwell on the 14 day of August 2016 before this witness:-

G. BONNAR

Witness

J. BONNAR

Chairperson

Gerard Bonnar _____

Buchanan House _____ Address

58 Port Dundas Road _____

Glasgow _____

Solicitor _____ Occupation