



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/13/0065

Re : Property at 78 Kenmure Street, Glasgow G41 2NR ("the House")

Title No: GLA44701

The Parties:-

Ms Tanzeela Khan, 10 Westfarm Avenue, Glasgow G72 7RH ("the Landlord")

Ms Yousef Samater, 78 Kenmure Street, Glasgow G41 2NR ("the Tenant")

NOTICE TO Ms Tanzeela Khan ("the Landlord")

Whereas in terms of their decision dated 18 March 2014, the Private Rented Housing Committee determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord has failed to ensure that the House is wind and watertight and in all respects reasonably fit for human habitation due to the House being badly affected by damp;

The Private Rented Housing Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the Landlord:-

- (a) to have the House (including lower walls and sub floor timbers, etc.) inspected by a competent firm of damp proofing and timber preservation specialists and a report obtained specifying what necessary remedial action is required to be carried out to eradicate the damp in the House and to produce a copy of the report to the Private Rented Housing Committee within one month from the date of service of this Notice; and
- (b) to carry out such works as are recommended in the report within two months of acceptance of the report by the Private Rented Housing Committee.

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, 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.

In witness whereof these presents type written on this and the preceding page are executed by Jamie Millar, Solicitor, 1 Royal Bank Place, Glasgow G1 3AA, chairperson of the Private Rented Housing Committee at Glasgow on 18 March 2014 before this witness:-

S McCann witness J Millar Chairman

Sharon McCann name in full

1 Royal Bank Place _____ Address

Glasgow _____

G1 3AA _____

Legal Secretary Occupation



DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE
UNDER
REGULATION 19(4) OF THE PRIVATE RENTED HOUSING PANEL
(APPLICATIONS AND DETERMINATIONS) (SCOTLAND) REGULATIONS 2007

In connection with

Property at 78 Kenmure Street, Glasgow G41 2NR
(the "House")

Ms Yousef Samater, 78 Kenmure Street, Glasgow G41 2NR (the "Tenant")

Ms Tanzeela Khan, 10 Westfarm Avenue, Glasgow G72 7RH (the "Landlord")

PRHP Reference PRHP/RP/13/0065

DECISION

The Committee, having attended at the House accompanied by the Committee Clerk and having been able to obtain access to the House for the purpose of inspection, resolved to make a repairing standard enforcement order.

Background

1. By application dated 5 August 2013 and received on 6 August 2013 the Tenant applied to the Private Rented Housing Panel ("PRHP") for a determination 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 the duty to ensure that the House meets the repairing standard and in particular that the Landlord had failed to ensure compliance with Section 13 (1)(a), (c) and (d) which state that
 - (a) the house is wind and watertight and in all respects reasonably fit for human habitation;
 - (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.

The Tenant's complaints of disrepair within the application related to the toilet floor flooding with water from the shower, a collapsed ceiling, damp in the two bedrooms and the kitchen, a broken sink in the toilet and the shower, washing machine and refrigerator are not working.

3. The Tenant submitted a copy of a letter to the Landlord dated 14 August 2013 setting out these matters and calling on the Landlord to remedy these matters within a reasonable time as required by the Act failing which the Tenant would submit an application to the PRHP. The Landlord's former agents acknowledged receipt of this letter on 16 August 2013 and advised that they had forwarded the Tenant's letter to the Landlord.
4. Having received confirmation that the tenancy of the House had been lawfully terminated by return of documentation from the post office indicating that the Tenant had vacated the House, the President of PRHP, given the nature of the complaints within the application, considered that the application should be determined on public interest grounds due to the nature of the alleged repairs which raise health/safety concerns for any future tenants/occupants and issues as to whether the House is fit for human habitation. By letter dated 19 November 2013 PRHP intimated to the parties that the President of PRHP had decided to refer the application under Section 23(1) of the Act to a Private Rented Housing Committee (the "Committee").

The Committee comprised the following members:

Mr Jamie Millar, Legal Member;

Mr Alex Carmichael, Surveyor Member;

Mr Chris Harvey, Housing Member.

5. The Committee attended to inspect the House at 10.00am on 9 January 2014. The Landlord was not present. No access to the House was available as the Landlord was not present.
6. Thereafter the Committee held a Hearing at the offices of the PRHP at Europa Building, 450 Argyle Street, Glasgow G2 8LH. The Landlord was not present or represented at the Hearing. The Committee considered that the application should be determined on public interest grounds due to the nature of the alleged repairs which raise health/safety concerns for any future tenants/occupants and issues as to whether the House is fit for human habitation
7. The Committee agreed to continue the Application until 14 February 2014 to allow Notice of Required Entry to be served on the Landlord by Sheriff Officer.
8. Notice was duly served on the Landlord by Sheriff Officer to intimate to the Landlord that the Committee would make an inspection of the House on 14 February 2014 at 10.00 am and that a further hearing would be held on the

same day at 11.00 am in the PRHP Office, Europa Building, 450 Argyle Street, Glasgow G2 8LH.

9. The Committee was again comprised of the following members:-

Mr Jamie Millar, Legal Member;

Mr Alex Carmichael, Surveyor Member;

Mr Chris Harvey, Housing Member.

10. The Committee attended to inspect the House at 10.00am on 14 February 2014. The Landlord was not present but access to the House was made available to the Committee by the Landlord's brother, Mr Yasar Khan, who advised the Committee that the House was now occupied by him and that it was no longer let. Mr Khan advised the Committee that the Landlord was on holiday and that on her return she will be resident at the House.

11. The findings of the inspection are as follows:-

11.1 Situation & General Description –

The House comprises a four apartment main door flat situated on the ground floor of a three storey tenement property which is estimated to be in the region of around 100/110 years old or thereby The House is located within a residential area comprising of similar properties with local amenities close at hand.

11.2 Construction –

The House appears to be of traditional construction with stone solid outer walling. The exposed gable has render finish. The floors throughout are timber boarded on suspended joists and solid. The timber pitched roof is finished with slates.

11.3 Accommodation –

The House comprises all on one level: outer Vestibule leading to inner Hallway, Lounge, three Bedrooms, dining Kitchen with fitted units and Bathroom with three piece suite.

11.4 Services –

Mains supplies of gas, water and electricity are supplied to the subjects and drainage is assumed to be to the public sewer. The property has the benefit of a gas fired central heating system.

11.5 Conditions Encountered at Inspection –

- Excessively high damp meter readings were obtained in the lower walls at various locations throughout the property indicating the likelihood of rising damp therein.

- The ceiling in the bedroom has been repaired.
- The toilet sink has been replaced.
- The shower is working.
- There is a shower screen in place to prevent the toilet floor from flooding with water from the shower.
- The washing machine has been replaced.
- The refrigerator has been replaced.
- It was noted additional fire/smoke alarms are required in the House to conform with current legislation.

12. Thereafter the Committee held a Hearing at the offices of the PRHP at Europa Building, 450 Argyle Street, Glasgow G2 8LH. The Landlord was not present or represented at the Hearing.

Submissions at the Hearing

13. No submissions were made at the Hearing.

Findings of the Committee

14. The Committee finds that:-

- 14.1 The House is no longer occupied by a tenant;
- 14.2 The ceiling in the bedroom has been repaired;
- 14.3 The toilet sink has been replaced;
- 14.4 The shower is working;
- 14.5 There is a shower screen in place to prevent the toilet floor from flooding with water from the shower;
- 14.6 The washing machine has been replaced;
- 14.7 The refrigerator has been replaced;
- 14.8 The House is badly affected by damp.

Decision

15. The Committee once more considered that it was appropriate for the Committee to determine the application on public interest grounds due to the outcome of the Committee's inspection disclosing that the House did not meet the repairing standard in that the House is badly affected by damp.

16. The Committee is of the view that the presence of damp is sufficiently serious that the House is not in all respects reasonably fit for human habitation. The Committee observed that additional fire/smoke alarms would be required in the House to satisfy the current Repairing Standard.

17. The Committee resolved to make the following Repairing Standard Enforcement Order:-

Whereas, the Private Rented Housing Committee has determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord has failed to ensure that the House is wind and watertight and in all respects reasonably fit for human habitation due to the House being badly affected by damp;

the Private Rented Housing Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the Landlord:-

(a) to have the House (including lower walls and sub floor timbers, etc.) inspected by a competent firm of damp proofing and timber preservation specialists and a report obtained specifying what necessary remedial action is required to be carried out to eradicate the damp in the House and to produce a copy of the report to the Private Rented Housing Committee within one month from the date of service of this Notice; and

(b) to carry out such works as are recommended in the report within two months of acceptance of the report by the Private Rented Housing Committee.

Reasons for Decision

18. It is appropriate for the Committee to determine the application on public interest grounds due to the outcome of the Committee's inspection disclosing that the House did not meet the repairing standard in that the House is badly affected by damp.

19. The decision of the Committee was unanimous.

Right of Appeal

20. 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 of the Act

21. Where such an appeal is made, the effect of the decision 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 will be treated as having effect from the day on which the appeal is abandoned or so determined.

 J Millar

Jamie Millar

Chairperson

18 March 2014