



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Ref: PRHP/RP/14/0151

Re property at: the first floor flat known as Flat 1/1, 5 Robertson Gait, Paisley, PA2 6DL, being the subjects registered in the Land Register of Scotland under Title Number REN113981 ("the Property")

The Parties:-

Ms Violet Forrest, residing at Flat 1/1, 5 Robertson Gait, Paisley, PA2 6DL ("the Tenant")

And

Miss Karina Bowlby, residing at 5, The Glebe, Edinburgh, EH4 6MW ("the Landlord")

NOTICE TO

Miss Karina Bowlby, residing at 5, The Glebe, Edinburgh, EH4 6MW ("the Landlord")

Whereas in terms of their decision dated 2 September 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 ("The Act") and in particular that the landlord has failed to ensure that:-

- (a) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order, all as required in terms of Section 13(1)(d) of the Act; and
- (b) 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.

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 concerned 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 to:-

- (a) to carry out such works as are necessary to repair the front door of the property so that it is in a reasonable state of repair and in proper working order;
- (b) to carry out such works as are necessary to repair the toilet within the property so that it flushes correctly and so that it is in a reasonable state of repair and in proper working order;

- (c) to secure the oven in the kitchen in a safe manner so that it can be used safely and so that it does not move within its housing;
- (d) to instruct a qualified electrician to inspect the electrics at the property and to issue an Electrical Safety Certificate in respect of the entire property. In particular, the qualified electrician should carry out such works as are necessary to repair the cooker control unit switch, circuitry or electrical appliances so that it does not trip the MCB at the electrical consumer unit when used;
- (e) to repair the fridge within the property or to supply a new fridge so that the Tenant has a fridge which is in proper working order; and
- (f) to repair the bath panel within the property so that the bath and the panel can be considered to be in a reasonable state of repair.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of four weeks from the date of service of this Notice.

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this page and the preceding page are executed by Andrew Cowan, chairperson of the Private Rented Housing Committee at Glasgow on 2 September 2014 before this witness:-

¹
A. Cowan

Signe

Date 2 September 2014

Andrew Cowan, Chairperson

¹
L. McManus

.....Witness

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA



Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

Ref: PRHP/RP/14/0151

Re property at: the first floor flat known as Flat 1/1, 5 Robertson Gait, Paisley, PA2 6DL, being the subjects registered in the Land Register of Scotland under Title Number REN113981 ("the Property")

The Parties:-

Ms Violet Forrest, residing at Flat 1/1, 5 Robertson Gait, Paisley, PA2 6DL ("the Tenant")

And

Miss Karina Bowlby, residing at 5, The Glebe, Edinburgh, EH4 6MW ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purpose of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property and, taking account of the evidence led by both the Landlord and the Tenant at the hearing, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Committee consisted of:-

Mr Andrew Cowan	-	Chairperson
Mr Andrew Taylor	-	Surveyor member
Ms Susan Brown	-	Housing member

Background

1. By application dated 10 June 2014, The Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Act.

2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with her duty to ensure that the house meets the repairing standard and the Tenant brought forward the following alleged breaches:-

- (a) the Tenant alleges that the front door at the property is not secure and is not fixed properly to the door frame;
- (b) the Tenant maintains that the toilet is not in working order as it does not flush properly and there is constant running water into the toilet bowl;
- (c) the Tenant maintains that the oven has not been securely fixed within the kitchen and it tips when the oven door is opened;
- (d) the Tenant maintains that on occasions, when the main cooker switch is set to the on position, it causes other electrics within the house to fuse;
- (e) the Tenant maintains that the fridge, which was provided by the Landlord as an appliance for use by the Tenant under the tenancy, is not in a reasonable state of repair and in proper working order;
- (f) the Tenant maintains that the bath panel, being part of one of the fittings supplied by the Landlord under the tenancy, has cracked and is not in a reasonable state of repair;

3. In light of these complaints, the Tenant considered that the Landlord had failed to meet the repairing standard and, in particular the Landlord had failed to ensure that:-

- (a) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order, all as required in terms of Section 13(1)(d) of the Act; and
- (b) 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.

4. By letter dated 26 June 2014, 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.

5. By letter dated 6th August 2014, the Private Rented Housing Committee advised both the Landlord and the Tenant that the Private Rented Housing Committee intended to inspect the property on 28 August 2014 at 10am. That letter further confirmed that a Hearing had been arranged in relation to the application, which hearing would be held in the Offices of the Private Rented Housing Panel at Europa Building, 450 Argyle Street, Glasgow, G2 8LH. Parties were advised that the hearing would be held at 11am on 28 August 2014.

6. On 28 August 2014, the Private Rented Housing Committee attended at the property for the purposes of the inspection of the Property.

In addition to the members of the committee (who were accompanied by the Committee's Clerk, Mr Luke McGuire), the inspection was also attended by the following parties:-

- (a) the Tenant, Ms Violet Forrest; and

- (b) Mr Kevin Montgomery, of the Citizens Advice Bureau, Renfrewshire (the Tenant's representative);

The Inspection

7. At the inspection on 28 August 2014, The Committee noted the following points:-
- (a) the front door of the property is not well fitted. As a result, the front door requires to be re-hung;
 - (b) the toilet within the bathroom of the property constantly runs water from the cistern into the toilet bowl. It was apparent to the Committee that the ball valve mechanism of the toilet is defective;
 - (c) the oven within the property has not been secured into the kitchen unit. As a consequence when the oven door is opened, the oven moves in a significant manner which could potentially render the oven unsafe to use;
 - (d) the Committee tested the main cooker control unit switch situated within the kitchen. The Committee noted that on occasions when the switch was put to the on position, it tripped the miniature circuit breaker at the electrical consumer unit within the property and as a consequence the electricians had to be reset ;
 - (e) the ice box door within the fridge in the kitchen of the property is broken and is not useable; and
 - (f) the bath panel in the property is cracked along its length near the top of the bath.

The Hearing

8. The hearing was attended by all the same parties who had previously attended the inspection of the Property.

The Landlord did not make any appearance at the hearing nor had she intimated to the Committee any reason for her non-attendance.

At the hearing, the Committee went through each of the Tenant's original complaints as stated in her application. Having considered each of the Tenant's complaints and discussed these with the Tenant in relation to her application, the following points were noted:-

- (a) the Tenant has raised all of the issues which she complains of in her application with the Landlord. The Tenant has exhibited to the Committee evidence of emails to the Landlord in which she has highlighted the issues of complaint. These emails date back as far as 12 September 2013. The Tenant has consistently raised these issues with the Landlord since that date. The Landlord has acknowledged the Tenant's complaints and has indicated an intention to carry out works to repair these issues. Notwithstanding this, the Landlord has carried out no work at the property to address any of the issues raised by the Tenant.
- (b) the Committee noted that the front door of the property is not well fitted or hung. When the common close door is used by any party, the front door of the Tenant's flat rattles in its frame. It is the Committee's view that the front door is not currently in a reasonable state of repair or in proper working order;
- (c) the Committee noted that the toilet within the property has constant water running from the cistern into the toilet bowl. The toilet, as a fitting provided by the Landlord under the tenancy, is not in proper working order;

- (d) the oven within the property has not been secured to the kitchen units and as a consequence moves when items are placed with the oven or when the oven door is open. The Committee considered this to be potentially unsafe. As an appliance provided by the Landlord under the tenancy Agreement, the Committee were not satisfied that it was in a reasonable state of repair or in proper working order;
- (e) the main cooker control unit switch can, on occasion, cause the miniature circuit breaker (MCB) at the electrical consumer unit to trip. The Committee considers that the installations within the house for the supply of electricity are not in a reasonable state of repair or in proper working order in this respect;
- (f) the Committee noted that the ice box within the fridge was broken. As a consequence the fridge could not properly be used as the fridge simply iced up when it was functioning. The Committee noted that as a result the fridge, as an appliance provided by the Landlord under the tenancy, was not in a reasonable state of repair or in proper working order; and
- (g) the Committee noted that the bath panel in the bathroom of the property is cracked along its length. The Committee noted therefore that as fixture provided by the Landlord under the tenancy, it was not in a reasonable state of repair or in proper working order.

Decision

9. The Committee accordingly determined that the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act in respect of the issues identified at paragraphs b to g above. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24.1 of the Act.
10. The decision of the Committee was unanimous.
11. In particular, the Private Rented Housing Committee requires the Landlord:-
 - (a) to carry out such works as are necessary to repair the front door of the property so that it is in a reasonable state of repair and in proper working order;
 - (b) to carry out such works as are necessary to repair the toilet within the property so that it flushes correctly and so that it is in a reasonable state of repair and in proper working order;
 - (c) to secure the oven in the kitchen in a safe manner so that it can be used safely and so that it does not move within its housing;
 - (d) to instruct a qualified electrician to inspect the electrics at the property and to issue an Electrical Safety Certificate in respect of the entire property. In particular, the qualified electrician should carry out such works as are necessary to repair the cooker control unit switch, circuitry or electrical appliances so that it does not trip the MCB at the consumer unit when used;
 - (e) to repair the fridge within the property or to supply a new fridge so that the Tenant has a fridge which is in proper working order; and
 - (f) to repair the bath panel within the property so that the bath and the panel can be considered to be in a reasonable state of repair.

The Committee considered that it would be reasonable to allow a period of four weeks from the date of the RSEO to carry out the works.

Right of Appeal

12. 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

13. 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.

^A
A Cowan

Signe
Andrew Cowan, Chairperson

Date 2 September 2014

L. McManus

.....Witness
Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA

