



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: prhp/RP/14/0154

Re : 31 Balmwell Avenue, Edinburgh EH16 6HE("the Property")

Title Number: MID95140

The Parties:-

Calum Maclean Watt, residing at 128 Henderland Road, Glasgow G61 1JA and also care of Centrum Office Limited, Centrum House, 38 Queen Street, Glasgow G1 3DX ("the Landlord")

and

Miss Roseanne Reddington residing at 31 Balmwell Avenue, Edinburgh EH16 6HE ("the Tenant")

NOTICE TO CALUM MACLEAN WATT ("the Landlord")

Whereas in terms of their decision dated 3 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 and in particular that the landlord has failed to ensure that:-

- (a) the structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (b) the installations in the Property 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;
- (c) 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
- (d) 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 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:-

- (a) to fit a suitable safety catch on the existing window of the front bedroom of the Property, such that it meets the repairing standard or, alternatively, to replace the entire double glazed window unit;
- (b) to instruct a suitably qualified Gas Safe engineer to carry out such repairs to the central heating boiler in the Property as are necessary to ensure it meets the repairing standard or, alternatively, to replace the central heating boiler;
- (c) to carry out such works as are necessary to make the bath in the Property secure and ensure an effective seal between the bath and the adjoining wall, to prevent leakage of water;
- (d) to have the garden shed of the Property inspected by a competent tradesman and thereafter to carry out such works as are necessary to render the shed secure and stable;
- (e) to install in the Property at least one smoke detector on each floor, a heat alarm in the kitchen, a carbon monoxide detector in the kitchen and a smoke alarm in the living room, all alarms to be mains-wired and interlinked; and
- (f) to exhibit to the Committee a current Gas Safety Certificate in respect of the Property.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 8 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.

In witness whereof these presents typewritten on this and the preceding page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade, on 3 November 2014, before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

Valerie Clark _____ witness

George Clark _____ chairman



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

prhp Ref: prhp/RP/14/0154

Re : Property at 31 Balmwell Avenue, Edinburgh EH16 6HE ("the Property")

The Parties:-

Miss Roseanne Reddington, residing at 31 Balmwell Avenue, Edinburgh EH16 6HE
("the Tenant")

and

Calum Maclean Watt, residing at 126 Henderland Road, Glasgow G61 1JA, and also
care of Centrum Office Limited, Centrum House, 38 Queen Street, Glasgow G1 3DX
("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 duty imposed by Section 14 (1)(b) in relation to the house concerned, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 11 June 2014, 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:-
 - (a) 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,
 - (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,
 - (c) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order,
 - (d) any furnishings provided by the Landlord under the tenancy are capable of being used for the purpose for which they are designed, and
 - (e) the house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire.
3. By letter dated 21 August 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.

4. 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.
5. Following service of the Notice of Referral the Tenant (by letter received on 24 September 2014), made written representations to the Committee. The Landlord (by letter received on 6 October 2014), made written representations to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 3 November 2014. The Tenant was present during the inspection. The Landlord was not present at the inspection, but was represented by Mr Damien Cairney of Infinity Property and Plumbing Maintenance. The Committee comprised George Clark (Chairman), Ian Murning (surveyor member) and Helen Barclay (housing member).
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at George House, 126 George Street, Edinburgh. Neither the Landlord nor the Tenant was present or represented at the hearing.
8. The Tenant, in her application, submitted as follows:- There was woodworm in the bathroom floor and the kitchen ceiling; the bath was not properly sealed and the bath was not secure, as a result of which water was getting down the back of the bath; a bedroom window catch was broken and did not lock properly, causing a fire and safety risk, especially with there being children in the Property; the central heating boiler was not working properly in that there was a loud bang when the heating and hot water were switching off and, although the Landlord had promised to replace the central heating boiler, to date this work had not been done; there was movement in the paving slabs to the front of the Property and some of the slabs were broken or warped, causing a tripping hazard to the Tenant and her family and damage to the Tenant's car; and the garden shed was collapsing, causing a safety risk to children playing in the garden.
9. In her letter to the Committee received on 24 September 2014, the Tenant advised the Committee that the Landlord had not installed any smoke detectors in the Property. She had brought this matter to the attention of the Landlord's representative, but nothing had been done, so she had bought and fitted two battery-operated smoke detectors. She had complained to the Landlord about the bath. A handyman instructed by the Landlord had re-sealed it but had not done any work to make it secure. As a result, the sealant had come away again, allowing water to escape and soak the floor beneath. This, she contended, had resulted in woodworm, which penetrated the ceiling of the kitchen below. The Landlord had not had any yearly gas safety checks carried out during the period of her tenancy, which had started in October 2009 and had not supplied a CO (carbon monoxide) detector for the Property. She had asked the Landlord by letter, text and telephone call, to deal with the issues raised in her application and letter, but he had failed to do so.
10. The Landlord, in his letter received by the Committee on 6 October 2014, submitted as follows:- The bathroom had been treated and the bath secured and a new ceiling had been fitted in the kitchen below; the kitchen units were being replaced in mid-October; the paving slabs had been repaired and the driveway fixed; the central heating boiler was working, but an application was currently in hand with Northern Gas in relation to a more economical replacement boiler under a Green Deal scheme; the bathroom window would be fixed within the next 14 days; and, whilst the Landlord was intending to replace the garden shed, his intention was to have the other repair works carried out first.
11. At the inspection, the Tenant confirmed that the kitchen ceiling had been replaced with PVC sheeting and she was satisfied that the problem she had experienced in that area had been resolved. She also confirmed that the slabs in the driveway had been repaired, but the bedroom window catch had not been repaired and the bath had not been made secure. The Landlord's representative, Mr Cairney, advised the Committee that Thermoshield (Cumbernauld) had been instructed to replace the bedroom window. Mr

Cairney also produced a Gas Safety Certificate, which was dated 9 October 2013. He was not able to confirm when the new central heating boiler would be installed.

Summary of the issues

12. The issues to be determined were whether the Property met the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duties imposed on landlords by Section 14(1)(b) of the Act.

Findings of fact

13. The Committee finds the following facts to be established:-
 - The tenancy is a Short Assured Tenancy of a two-storey dwellinghouse and garden, in which there is a large shed.
 - It appears that remedial work has recently been carried out to the paving slabs forming the driveway to the front of the Property and the Tenant has confirmed she is satisfied with the repair works.
 - The Tenant has experienced problems with the central heating boiler. The Landlord has stated that it is to be replaced, but is not able to confirm when that will happen.
 - The Committee was not able to inspect the timbers above the kitchen ceiling for evidence of woodworm. The kitchen ceiling has been lined with PVC panelling and the Tenant has confirmed she is satisfied with the works that have been carried out in that respect.
 - There is no safety catch on the front bedroom window to prevent it from opening fully. The Landlord's agent told the Committee that the Landlord had instructed that the window be replaced but, as at the date of the inspection, that work had not been carried out.
 - The bath is not securely fitted and, consequently, there is movement between the bath and the adjoining wall. This has led to a breakdown of the seal and there is now no seal along the whole extent of the bath. This will allow shower water to flow freely down the side of the bath and on to the floor below.
 - There are no mains-wired smoke detectors in the Property. Two battery-operated smoke detectors have been fitted by the Tenant.
 - There is no mains-wired carbon monoxide detector in the Property.
 - There is no heat alarm in the kitchen of the Property.
 - The Gas Safety Certificate for the Property expired on 8 October 2014.
 - The garden shed is in a state of disrepair.

Reasons for the decision

14. The Committee was unable to test the central heating boiler, but, in the absence of evidence to the contrary, accepted the written evidence from the Tenant that she had experienced problems with it and noted that the Landlord was in the process of applying to have a new boiler fitted as part of a Green Deal scheme, but was concerned that there was no estimate available of the timescale within which the new boiler would be fitted and no confirmation from Northern Gas that the boiler would definitely be replaced. As at the date of the inspection, the installations for the supply of space heating and heating water to the Property were not in proper working order, so do not meet the repairing standard as set out in Section 13(1)(c) of the Act..
15. The window in the front bedroom is unsafe, as the window catch will not prevent it from opening fully. The Tenant has young children, so this defect has safety implications, as well as making ventilation of the room difficult. The window is not in a reasonable state of repair and in proper working order, so does not meet the repairing standard as set out in Section 13(1)(b) of the Act.

16. The bath in the Property is not securely fitted, allowing water from the shower to flow on to the floor beneath. Accordingly, it is not in a reasonable state of repair and does not meet the repairing standard as set out in Section 13(1)(d) of the Act.
17. The absence of mains-wired smoke detectors, a heat detector in the kitchen and a carbon monoxide detector means that the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, so the Property does not meet the repairing standard as set out in Section 13(1)(f) of the Act,
18. The Committee was concerned that the Property did not have the benefit of a current Gas Safety Certificate.
19. The Committee was concerned that the condition of the garden shed was such that it might present a danger to those using the garden of the Property and, in particular, to young children.

Decision

20. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
21. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
22. The decision of the Committee was unanimous.

Right of Appeal

23. **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

24. 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 **George Clark** Date 3 November 2014
Chairperson