



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

Reference number:- PRHP/RP/14/0156

Re: Property at the Upper Flatted Dwellinghouse situated at 760 Mossbank Drive, Glasgow G52 3AU being the subjects registered in the Land Register of Scotland under Title Number GLA9032.

The Parties:-

Ms Ruth Howie, residing at 760 Mossbank Drive, Glasgow G52 3AU ("the Tenant")

and

Wearwell Properties Limited, being a Company registered under the Companies Acts (Registered No. SC254022) and having their Registered Office at 20 Battlefield Road, Battlefield, Glasgow G42 9QF ("the Landlords")

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 concerned and, taking account of the evidence submitted by both the Landlords and the Tenant, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Committee consisted of:-

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| Mr Andrew Cowan | - | Chairperson |
| Carol Jones | - | Surveyor member |
| Ms Mary Lyden | - | Housing member |

Background

1. By application dated 19 June 2014, the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlords have 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 Landlords had failed to comply with their duty to ensure that the property meets the repairing standard and the Tenant brought forward the following alleged breaches:-

That the electric wiring within the property is dated and requires to be replaced or maintained. The Tenant maintains that she does not have full use of electricity throughout the property and in particular there are problems with the electrical supply within the kitchen and some of the bedrooms in the property. The Tenant maintains that many of the electric points within the property are not working and she requires to use a number of extension cables to ensure that there is an adequate supply of electricity to rooms within the property. The Tenant maintains that she has received electric shocks when she has used appliances or turned on lights. The Tenant considers that the Landlords are in breach of their duties under the Housing (Scotland) Act 2006 in relation to the repairing standard and in particular the Landlords have failed to ensure :-

- (i) that the installations in the house that supply water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order; and
 - (ii) that any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order.
3. By letter dated 31 July 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. By email dated 21 August 2014, the Tenant's representatives, Govan Law Centre intimated that they would be willing to attend the hearing. They also informed that the Landlord had sent an electrician to the property, who replaced some fuses but who advised "that the system is overloaded and is a risk to health and safety".

5. On 15 September, 2014 the Private Rented Housing Committee wrote to both the Landlords and the Tenant to advise that the Private Rented Housing Committee intended to inspect the property on 9 October 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. The parties were advised that the Hearing would be held at 11am on 9 October 2014.
6. By Direction dated 22 September 2014 the Committee, taking into the consideration the nature of the Tenant's complaint, directed that:-

"The Landlords are required to provide an electrical installation condition report for domestic premises from a suitably qualified electrician or electrical engineer on the condition of the electrical installations and wirings within the property."

The Committee further directed that this evidence is to be produced to the Committee not later than 8 October 2014.

7. The Landlords failed to comply with the terms of the Direction dated 22 September 2014 and failed to produce the required electrical installation condition report required by that Direction.

The Inspection

8. On 9 October 2014 the Private Rented Housing Committee attended at the property for the purposes of inspection of the property. The Tenant was present at the inspection. She was accompanied at the inspection by her legal representative, Miss Karen Osborne from Govan Law Centre.

At the inspection on 9 October 2014 the Committee noted the following points:-

- (a) The cooker in the kitchen is not connected to the main distribution switch which is located within the kitchen. An extension cable has been hardwired into a socket

which is located below one of the work units adjacent to the kitchen and the cooker appears to be plugged into that extension cable.

- (b) Two of the sockets in the kitchen are located directly above the sink area and appear to be in an unsafe position given the proximity to the likely use of water.

There are a number of defective socket and switch covers within the property which were broken and/or loose.

The Hearing

9. The Tenant and her legal representative attended the Hearing. The Landlords did not attend the Hearing. At the Hearing the Committee received a letter (dated 7 October 2014 which had been submitted by the Landlords). In that letter the Landlords acknowledged the date of the inspection and the Hearing. The Landlords accept that the property needs fully rewired. The Landlords indicated that the Tenant has not been co-operative in ensuring that any necessary work to have rewiring carried out at the property is carried out. The Landlords indicate that the Tenant has not been willing to move to alternative accommodation. The Landlords further state that the Tenant's Tenancy Agreement expires in December and the Tenant has been issued with notification of termination.

At the Hearing the Tenant gave evidence to the Committee. She explained that the boiler within the property and its associated electrical equipment had been installed by contractors around January 2014. At that time the company that installed the boiler had indicated concerns to the Tenant about the safety of the electrics within the property.

The Tenant has been receiving electrical shocks from some of the electrics within the property. The Tenant also gave evidence that at one point there was smoke coming from the fuse box.

In mid-August 2014 the Landlords had arranged for an electrician to visit the property. That electrician had replaced certain fuses and had repaired the light switch within the bathroom of the property. That electrician had indicated that he had concerns as to the safety of the electrics within the property and that he would accordingly report on that basis to the Landlords. The Tenant recalls that the electrician specifically indicated to the Tenant that the "whole place needs rewired".

The Tenant does not accept that she has been uncooperative in attempts by the Landlords to carry out necessary works to the electrics within the property. The only alternative property which the Tenant has been offered by the Landlords has been on a permanent basis. No offer of decant property to allow necessary works to be completed within the property have been made by the Landlords to the Tenant. The Tenant does not wish to move to an alternative permanent address.

Discussion on Evidence

10. The Committee are entirely satisfied on the evidence that the Landlords have failed to meet the repairing standard in respect of the property. This appears to be accepted by the Landlords themselves in terms of their letter of 7 October 2014 where they accept that the "property needs fully rewired". In the circumstances the Committee are satisfied that the installations in the house for the supply of electricity are not in a reasonable state of repair and are not in working order.

The Landlords appear to suggest that they have been unable to carry out any remedial works because the Tenant has not been co-operative. The Committee do not accept the Landlords' evidence in this respect. The Committee heard evidence from the Tenant on this point. The Tenant appeared to be both credible and reliable. The Committee accepts that the Landlords made no creditable attempts to carry out the necessary repairs to the property. In the event that the Tenant does require to move out while necessary repairs are carried out, the Landlords have not made any offers of decant accommodation to the Tenant which would allow her to move out while the works are carried out.

Decision

11. The Committee accordingly determine that the Landlords have failed to comply with the duty imposed by Section 14(1)(b) of the Act. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1) of the Act.
12. The decision of the Committee was unanimous.
13. The Private Rented Housing Committee require the Landlords to carry out such works as are necessary to ensure that all installations in the property for the supply of electricity are in a reasonable state of repair and in proper working order.

After the necessary works have been carried out to the electrical installations in the property the Landlords are required to produce to the Committee an electrical installation condition report for domestic premises which should be prepared by a registered and qualified electrical engineer or electrician and which should confirm that the electrical systems within the property are in a reasonable state of repair and in proper working order.

14. 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.

Observations

15. At the time of the inspection the Committee noted that the battery operated smoke alarm within the property had no batteries and was therefore not operable. The Tenant explained at the Hearing that the smoke alarm has never had batteries installed and it was in that condition when she took entry to the property.

The Committee are concerned for the safety of the Tenant. It is the Landlords' duty to ensure that the necessary smoke alarms are installed within the property and that they are operable at the time that the Tenant takes entry to the property. The Committee noted that as the batteries operate a smoke detector, it was not operable at the time the Tenant took entry and the Landlords may now be required to install hardwire smoke detectors within the property. In the meantime the Committee urged the Tenant to take the necessary steps to ensure that the existing smoke alarm is made operable, if possible, and further advised the Tenant to take advice from the Fire Brigade in this connection.

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.

A Cowan

Signed

..... Date 30/10/14

Andrew Cowan, Chairperson

P Kearney

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.....Witness

Pamela Kearney, Secretary, 7 West George Street, Glasgow, G2 1BA



Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

Reference number:- PRHP/RP/14/0156

Re: Property at the Upper Flatted Dwellinghouse situated at 760 Mosspark Drive, Glasgow G52 3AU being the subjects registered in the Land Register of Scotland under Title Number GLA9032.

The Parties:-

Ms Ruth Howie, residing at 760 Mosspark Drive, Glasgow G52 3AU ("the Tenant")

and

Wearwell Properties Limited, being a Company registered under the Companies Acts (Registered No. SC254022) and having their Registered Office at 50 Battlefield Road, Battlefield, Glasgow G42 9QF ("the Landlords")

NOTICE TO

Wearwell Properties Limited, 50 Battlefield Road, Battlefield, Glasgow G42 9QF
("the Landlord")

Whereas in terms of their decision dated 30 October 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 the installations in the house that supply 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 carry out such works as are necessary to ensure that:-

- (a) all installations in the property for the supply of electricity are in a reasonable state of repair and in proper working order; and
- (b) after the necessary works have been carried out to the electrical installations in the property the Landlords are required to produce to the Committee an electrical installation condition report for domestic premises which should be prepared by a registered and qualified electrical engineer or electrician and which should confirm

that the electrical systems within the property are in a reasonable state of repair and in proper working order.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 4 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 30 October 2014 before this witness:-

A Cowan

Signed

Date 30 October 2014

Andrew Cowan, Chairperson

P Kearney

.....Witness

Pamela Kearney, Secretary, 7 West George Street, Glasgow, G2 1BA