



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: prhp/RP/14/0224

Re : Property at 14/2 Waverley Park, Edinburgh EH8 8EU ("the Property")

Sasine Description: ALL and Whole that flatted dwellinghouse 14/2 Waverley Park in the City of Edinburgh and County of Midlothian, being the southmost ground floor dwellinghouse of the tenement of which it forms part and being the subjects registered in the Land Register of Scotland under Title Number MID56481

The Parties:-

Krishna Ferguson, 19 Grosvenor Crescent, Edinburgh EH12 5EL and Alexander Mackie Ferguson, 41/2 Spottiswoode Street, Edinburgh EH9 1DQ ("the Landlord")

And

Anton Habel and Grevelyn Bretti, both 14/2 Waverley Park, Edinburgh EH8 8EU ("the Tenant")

NOTICE TO KRISHA FERGUSON AND ALEXANDER MACKIE FERGUSON ("the Landlord")

Whereas in terms of their decision dated 11 February 2015, 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 structure and exterior of the Property (including drains, gutters and external pipes) 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 Property 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 repairs as are necessary to the windows in the living room/kitchen area and bedroom of the Property to ensure that they are capable of being opened and closed safely and easily to permit ventilation and safe cleaning.

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.

In witness whereof these presents typewritten on this page are executed by George Barrie Clark solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade on 11 February 2015 before this witness, Valerie Elizabeth Jane Clark, Droman House, Lasswade:-

____ witness

George Clark _____ chairman

Valerie Elizabeth Jane Clark



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

prhp Ref: PRHP/RP/14/0224

Re : Property at 14/2 Waverley Park, Edinburgh EH8 8EU ("the Property")

The Parties:-

Anton Habel and Gevelyn Bretti, both residing at 14/2 Waverley Park, Edinburgh EH8 8EU ("the Tenant")

Krishna Ferguson, 19 Grosvenor Crescent, Edinburgh EH12 5EL and Alexander Mackie Ferguson, 41/2 Spottiswoode Street, Edinburgh EH9 1DQ ("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 9 September 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,
 - (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.
3. By Letter dated 3 October 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 made no further written representation to the Committee. The Landlord made no written representations to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 11 February 2015. The Tenant, Mr Habel, was present during the inspection. The Landlord

was not present or represented at the inspection. The Committee comprised George Clark (Chairman) and Ian Murning (surveyor 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 Tenant nor the Landlord was present or represented at the hearing.
8. The Tenant, in the application, submitted as follows:- The Tenant had written to the Landlord on 23 June 2014, referring to previous discussions and text message exchanges regarding maintenance issues at the Property. In particular, the Tenant referred to failure to provide smoke and carbon monoxide alarms, the absence of a Gas Safety Certificate and difficulties in opening and closing the bedroom window and the right hand sitting room window. On 2 August 2014, the Landlord had installed a smoke detector. The Landlord had also provided a carbon monoxide detector and had arranged for a gas safety check to be carried out on 16 July 2014. The Landlord had not, however, done anything about the problems regarding the windows at the Property, despite giving assurances that any necessary adjustments would be carried out. The Landlord had, however, served a Notice to Quit on the Tenant following upon the Tenant's application to the Private Rented Housing Panel.
9. The Landlord made no submissions to the Committee.

Summary of the issues

10. 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

11. The Committee finds the following facts to be established:-
 - The tenancy is a Short Assured Tenancy which commenced on 15 May 2014.
 - There is a mains-wired smoke detector in the hallway of the Property, but no smoke detector in the living room/kitchen area. The detector in the hallway was tested at the inspection and was found to be in working order.
 - There is a portable carbon monoxide detector in the cupboard housing the central heating boiler in the living room/kitchen area of the Property. The detector was tested at the inspection and was found to be in working order.
 - A Gas Safety Certificate dated 16 July 2014 was available at the inspection. The Registered Gas Safe Engineer who issued it was Steven Henderson (Engineer reference number 3441611) of SI Contracts (Scotland) Limited, 41 Park Drive, Musselburgh (Registration number 539501).
 - A securing clip, part of the securing mechanism in the bedroom window has become detached. The window is extremely difficult to open and close and cannot be opened safely for ventilation and cleaning.
 - The lever handle on the right hand window in the living room/kitchen area of the Property is extremely stiff and the window does not open and close properly for ventilation and cleaning.

Reasons for the decision

12. The Committee was of the view that both the bedroom window and the right hand window in the living room/kitchen area of the Property did not open and close properly. This created difficulties in ventilating the Property and in cleaning the windows safely, as well as creating a security issue, given that the Property is a ground floor flat whose windows face directly on to the pavement outside. Consequently, the structure and exterior of the house was not in proper working order and the Property did not meet the Repairing Standard.

Decision

13. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
14. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
15. The decision of the Committee was unanimous.
16. The Committee observed at the inspection that the flame failure device on the gas hob in the Property was not working. Both at pre-ignition and when the flame was blown out, the gas continued to flow. The Committee was concerned that the Gas Safety Certificate stated that there was a functioning flame failure device. It did not form part of the Tenant's application to the Private Rented Housing Panel, so could not be made the subject of a Repairing Standard Enforcement Order, but the Committee strongly recommends that this defect is attended to by the Landlord as a matter of urgency.
17. The Committee also noted that the Landlord had served a Notice to Quit on the Tenant and considered it appropriate to remind the Landlord that it would be a criminal offence for the Landlord to re-let the Property prior to the work required by the Repairing Standard Enforcement Order being carried out, the Property being re-inspected by the Private Rented Housing Committee and the Order being discharged.

Right of Appeal

18. **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

19. 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: 11 February 2015
Chairperson