



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/14/0248

Re : Property at 34D Bayhead Street, Stornoway, Isle of Lewis HS1 2DX ("the Property")

Sasine Description: ALL and WHOLE the ground floor flatted dwellinghouse known as 34D Bayhead Street, Stornoway, Isle of Lewis in the County of Ross & Cromarty, being part of the subjects more particularly described in and disposed by Disposition by Margaret Morrison or Mackay and others in favour of Arshid Mohammed dated 7 February 1991 and subsequent dates and recorded in the Division of the General register of Sasines applicable to the County of Ross & Cromarty on 14 February 1992.

The Parties:-

Arshid Mohammed, residing at 46 Morrison Avenue, Stornoway, Isle of Lewis ("the Landlord")

and

Geraint Brown, residing sometime at 34D Bayhead Street, Stornoway, Isle of Lewis HS1 2DX ("the Tenant")

NOTICE TO ARSHID MOHAMMED ("the Landlord")

Whereas in terms of their decision dated 25 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:-

- (a) the Property is wind and water tight and in all other respects fit for human habitation,
- (c) 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,
- (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, and
- (f) the Property 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:-

1. To instruct a suitably qualified electrician to carry out such repairs and remedial works as are required to ensure that the installation in the Property for the supply of electricity and the electrical fittings and appliances are in a reasonable state of repair and in proper working order and thereafter to provide an electrical inspection report by a suitably qualified electrician on the working order and condition of the installation in the Property for the supply of electricity, which report will also address the state of repair and working order of the electrical fittings and appliances.
2. To carry out such repairs to the external door of the Property as are necessary, including the fitting of a door plate at the bottom, to make the Property wind and water tight.
3. To carry out such repairs as are necessary to the washing machine in the Property and the connection to the cold water feed serving it to ensure that the washing machine is in a reasonable state of repair and in proper working order.
4. To carry out such works as are necessary to ensure that the floor surfaces and floor coverings in the Property are in a reasonable state of repair and do not present a tripping hazard to occupiers of the Property.

5. To carry out such works as are necessary to securely attach the wash hand basin in the shower room to the wall, and

6. To install in the Property a satisfactory system for detecting fires and for giving warning in the event of fire or suspected fire, which system should comply with the Domestic Technical Handbook Guidance and provide at least one functioning smoke alarm in the living/sleeping/kitchen area of the Property, one functioning smoke alarm in the hallway and one heat alarm in the kitchen area, all alarms being hard-wired and interlinked.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of three months 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 26 February 2015, before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

V. Clark _witness

G. 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/14/0248

Re : Property at 34D Bayhead, Stornoway, Isle of Lewis HS1 2DX ("the Property")

The Parties:-

Geraint Brown, residing sometime at 34D Bayhead, Stornoway, Isle of Lewis HS1 2DX ("the Tenant")

Arshid Mohammed, residing at 46 Morrison Avenue, Stornoway, Isle of Lewis ("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, and taking account of the evidence led by the Landlord at the hearing, 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 23 October 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 house is wind and water tight and otherwise fit for human habitation,
 - (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, and
 - (d) 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 November 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 e-mail dated 5 December 2014), made written representations to the Committee. In that e-mail, he advised the

Committee that he had moved out of the Property on 1 December 2014, having been rehoused by the local authority, which had recognised that the Property was unfit for human habitation.

6. The Private Rented Housing Committee issued a Minute of Continuation dated 11 December 2014, being a decision under Schedule 2 Para 7(3) of the Act that, notwithstanding the fact that the Tenant had moved out of the Property, the application should be determined on health and safety and public interest grounds due to the nature of the alleged repairs detailed in the application and the potential effects for any future tenants/occupiers if the allegations were substantiated. The Committee also issued a Notice of Direction dated 11 December 2014, requiring the Landlord to provide, no later than 13 January 2015, an up to date electrical inspection report by a suitably qualified electrician on the working order and condition of the installation in the Property for the supply of electricity, which report was also to address the state of repair and working order of the electrical fittings and appliances. The Minute of Continuation and Notice of Direction were sent to the Landlord on 19 December 2014.
7. The Landlord (by letter dated 26 November 2014), made written representations to the Committee, in which he stated that he had been unable to complete the works required in the Notice of Direction attached to the letter sent by the Private Rented Housing Panel on 19 December 2014, as the Tenant had vacated the Property without returning the keys, but that he would not attempt to let the Property unless all remedial works had been carried out.
8. The Private Rented Housing Committee inspected the Property on the morning of 26 February 2015. The Tenant was not present or represented during the inspection. The Landlord was present at the inspection and hearing and was accompanied by Dawn Macdonald of Islands Advocacy. The Committee comprised George Clark (chairman) and Sara Hesp (surveyor member).
9. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Bayhead Bridge Centre Trading Limited, Lamont Lane, Bayhead, Stornoway and heard from the Landlord.
10. The Tenant, in his application, submitted as follows:- the Property was dangerous due to water dripping out of an electrical socket, there was no working fire alarm and the Property was dangerous. There was rat infestation and rat access points should be filled. A new door was needed and there was no working fire alarm. Floor coverings were needed, the water inlet tap of the washing machine was dripping and the hot water tap in the kitchen was not working. The bathroom sink was not securely fitted to the wall, the pipe on the bathroom floor was leaking and the exterior extractor vent from the bathroom needed to be fixed. The Tenant attached to his application a report, with supporting photographs, by Morag McNeill, Food Safety Officer and Trainee Environmental Health Officer, Development Department, Western Isles Council, which highlighted the amount of dumped material and items in the access courtyard area, which would provide harbourage for rats and evidence, supported by comments made to her by other residents in the area, of holes gnawed in the edges of doors and of access holes in door surrounds and building edges. Her report also drew attention to the condition of the wall around the external ventilation grill, which the Tenant had covered with a plastic bag in an attempt to stop rain penetration which was causing the electricity supply to "trip". The mechanical vent from the shower room was not working, as the hose connector to the external grill had been removed.
11. The Landlord, at the hearing, submitted as follows:- the outside door was solid and only required a timber door plate at the bottom. The gaps and holes referred to by the Tenant as allowing rats access to the Property had been filled. It was the Tenant's duty to keep the external area clear and clean. The Landlord had addressed the problem, namely a leak from the flat above which had caused water to penetrate the external ventilator grill. The hot water tap in the kitchen sink was not working as it was no longer the source of hot water. Hot water to the kitchen and bathroom sinks was provided by electric water

heaters, which were working, although the electricity supply to the Property was currently switched off. The Landlord had supplied the washing machine, but the Tenant had fitted it himself. The smoke detector had been taken off by the Tenant, as he was a smoker. The flooring did not constitute a trip hazard. The Landlord also stated that he had offered the Tenant a room in another property, not owned by the Landlord, but the Tenant had declined that offer.

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 presumed to be an assured tenancy, but there is no written lease.
 - The Property comprises a single room and shower room on the ground floor of a two-storey building. The room contains a kitchen sink, a free standing washing machine and a bed and comprises a living/sleeping/kitchen area.
 - The Property is accessed from a communal area, which, at the date of the inspection, was in an extremely untidy condition due to slates and other builders' rubble and general rubbish having been deposited there.
 - There was no evidence of rat infestation in the Property.
 - The bottom plate of the external door of the Property is rotten.
 - There is a smoke detector in the vestibule inside the external door of the Property, but it was not functioning, as part of it was missing and a wire was hanging loose from the fitment. There is no functioning smoke alarm in the room which would be used by the occupants for general daytime living purposes and no heat alarm in the kitchen area of that room.
 - The floor covering in the living room/bedroom/kitchen area of the Property is partly vinyl and partly laminate sheeting, sections of which are missing, and is in a very poor state of repair. There is no floor covering in the shower room, the flooring of which appears to be bare concrete. The metal threshold is, however, in place at the shower room door.
 - The electricity supply was not operational at the time of the inspection. A power socket on the wall of the living/sleeping/kitchen area was hanging off the wall and there was evidence of water in the conduit below. A number of light fittings were hanging off the ceilings.
 - Water is dripping from the washing machine connection to the cold water feed.
 - The hot water tap at the kitchen sink is not working. The Committee could not check whether the hot water heaters in the kitchen area and shower room were working, as the electricity was switched off at the time of the inspection.
 - The wash hand basin in the shower room is not securely fixed to the wall.
 - The Committee saw no evidence of a leak from a pipe in the shower room.
 - The extractor fan in the shower room could not be tested, as the electricity supply was switched off at the time of the inspection. It leads to the outside wall above the external door of the Property and there was some evidence that repairs had been carried out in the area of the external ventilation grill.

Reasons for the decision

14. The electrical installation in the Property is clearly unsafe and, in the view of the Committee, represents a serious potential threat to the safety of future tenants or occupiers of the Property. Although the communal area outside the Property is extremely untidy, it is not impeding access to the Property and, as the rubble and rubbish is non-organic, it does not of itself pose a threat of rat infestation and the Committee found no evidence of the presence of rats in the Property. The external door is not wind and water tight, so does not meet the repairing standard. Although the Tenant fitted the washing

machine, it was provided by the Landlord under the tenancy and it is the Landlord's responsibility to ensure that it is in a reasonable state of repair and in proper working order. The floor coverings in the living/sleeping/kitchen area are in a very poor state of repair and represent a tripping hazard, as does the metal threshold in the doorway of the shower room. The wash hand basin in the shower room is loose and, potentially, might fall off the wall if it is not properly secured. The Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. The view of the Committee is that the Property is currently not fit for human habitation.

Decision

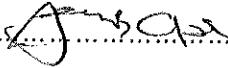
15. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
16. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
17. The decision of the Committee was unanimous.

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  Date... 26 February 2015

Chairperson