



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

prhp Ref: EH4/145/10

Re : Property at 34 Easter Drylaw Drive, Edinburgh being All and Whole the house at 34 Easter Drylaw Drive, Edinburgh as described in the Disposition to Huddersfield Building Society recorded in the General Registers Sasines on 19 January 1938 ("the Property")

The Parties:-

Alan Peattie Robertson trading as APR Properties, 33 Wardie Road, Edinburgh ("the Landlord")

Ms Christine Hutchinson, 34 Easter Drylaw Drive, Edinburgh ("the Tenant")

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 both the Landlord and the Tenant 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 14 October 2010, 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 is wind and water tight and in all other respects reasonably fit for human habitation, that 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, that 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 and to ensure that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. 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. The Private Rented Housing Committee inspected the Property on 21 January 2011. The Tenant was present and accompanied by Simon Shearer from the Citizens Advice Bureau. The Landlord was not present or represented.
6. Following the inspection of the Property, the Private Rented Housing Committee held a hearing at Scott House, South St Andrews Street, Edinburgh. The Tenant and Mr Shearer were present as were the Landlord and his son.

7. The Committee heard representations from both the Tenant and the Landlord.
8. Mr Shearer on behalf of the Tenant started to detail the various repairs which were required to the property. The Landlord indicated that there was no argument that the repairs required to be done and it was accordingly not necessary for the Tenant to go through all the repairs. The Landlord clarified that he accepted that all the defects set out in both the Tenant's application and the letter sent by the Tenant to him in 2009 did require to be repaired. The Landlord explained that he had inherited the property just over a year ago and realised then that the property required to be completely rewired, have double glazing and heating installed and required work done on the bathroom and kitchen. The Landlord stated that it was their intention to upgrade the house and pointed out that the Tenant had previously been paying a peppercorn rent and now only paid £300 per month. The Landlord explained that there had been access difficulties which was why it had not been possible to carry out the work to date. Both the Landlord and the Tenant explained that there had been difficulties with regard to where the Tenant would go while the works were done, given that the works required were so extensive that it would be very difficult for the Tenant to remain in the property during the work. The Landlord indicated that it should only take three or four weeks to get the urgent work done but to have everything done might take up to six months. The Tenant indicated that she had no particular views on the timescale.

Decision

9. The Committee considered all the written evidence before it and also the submissions made by the Landlord and the Tenant. There was no disagreement between the parties with regard to the fact that the property required extensive works to be carried out. The Committee considered each item raised by the Tenant in turn.
 - a) It was clear from the submissions made and from inspection of the property that the harling on the exterior of the property was faulty and boss with cracks and bare patches. In a couple of places it was so bad that there were holes in the walls. The Committee considered that this was clearly a breach of Section 13(1)(b) of the Act and accordingly an Order was made in respect of this.
 - b) It was also clear from the inspection and confirmed by the submissions made that the windows in the property had been neglected and the window sills in particular had soft and decaying timbers. There is also a problem with some of the windows not opening. There is also cracked/open mastic pointing around some of the windows which requires repair or replacement. The Committee considered that this was clearly a breach of Section 13(1)(b) of the Act and resolved to make an Order in respect of this.
 - c) In connection with the front door, it was clear that the facings were rotting and repair was required. The back door of the property has a defective lock and the window above the back door has a defective top hinge requiring the Tenant to use sellotape to hold the window shut. The weather bar beneath the back door has fixings missing and there is a hole in the floor. The Committee considered that this was clearly a breach of Sections 13(1)(a) and 13(1)(b) of the Act. An Order was accordingly made in respect of this.
 - d) In connection with the wiring and plumbing in the property, it was clear from the inspection and accepted by both parties that the property has an outdated lead lined water system and the wiring and consumer unit in the property are outdated and inadequate. There is no heating in the property although there was an open fire place in the living room where the Tenant has installed her own heater. The heater on the kitchen wall and heater in the bathroom do not appear to be working correctly and are extremely dated. The Committee considered that this was a breach of Section 13(1)(c) of the Act and resolved to make an Order.

- e) It was clear that there were no wired smoke alarms in the property. The Tenant has installed a battery one but the Committee find that the Landlord is in breach of Section 13(1)(f) of the Act. An Order was accordingly made.
 - f) In connection with the kitchen, it was clear from the inspection that the linoleum on the kitchen floor is torn and a tripping hazard and there is also a loose floorboard at the entrance to the kitchen. The kitchen is very basic with only a sink and formica worktop having been provided by the Landlord and the formica is coming away from the sink. There is however a gas supply to the kitchen. The Committee noted that the tiles on the wall in the bathroom were coming off which the Committee considered could be a hazard. The Committee considered that this was a breach of Section 13(1)(d) and (e) of the Act and resolved to make an Order in this respect.
 - g) In connection with the bubbled ceiling in the bedroom and wallpaper that was coming off the roof and wall in the bathroom, this would appear to have resulted from a one off leak from the upstairs flat some time ago. The Committee accordingly did not consider that the Landlord was in breach of the Repairing Standard in respect of this as it was mainly a redecoration issue. There was slight evidence of black mould on the wall in the bathroom but this is most likely a condensation problem and the Committee did not find a breach of the Repairing Standard in respect of this matter.
10. The Committee accordingly determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the said Act and proceeded to make a Repairing Standard Enforcement Order in relation to a number of matters as required by Section 24(2).
 11. The decision of the Committee is unanimous.
 12. Given the amount of work which has to be carried out by the Landlord, the Committee consider it is reasonable to allow the Landlord a period of three months to do this. However given the potentially dangerous state of the wiring, the Committee recommend that this is dealt with as soon as possible.

Right of Appeal

13. 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

14. 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.

J Lea

Signed Date 1 February 2011
Chairperson

A Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

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The Parties:-

Alan Peattie Robertson trading as APR Properties, 33 Wardie Road, Edinburgh ("the Landlord")

Ms Christine Hutchinson, 34 Easter Drylaw Drive, Edinburgh ("the Tenant")

NOTICE TO:-

Alan Peattie Robertson trading as APR Properties, 33 Wardie Road, Edinburgh

Whereas in terms of their decision dated 1 February 2011, The Private Rented Housing Committee having 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 comply with the duty to ensure that:- the house is wind and water tight and in all other respects reasonably fit for human habitation, 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, 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, any fixtures and fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order, any furnishings provided by the Landlord under the Tenancy are capable of being used safely and for the purpose for which they are designed and that 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 of the work in terms of this Order is made good.

In particular, the Private Rented Housing Committee requires the Landlord to:-

1. Repair/replace the harling on the exterior of the property to ensure it is in a reasonable state of repair and in proper working order.
2. Repair/replace all the windows in the property to ensure that they are in a reasonable state of repair and in proper working order.
3. Repair the facings to the front door and repair the back door to ensure that the door and the hopper window above are secure and in a proper working order and in a reasonable state of repair including replacing the weather bar beneath the door to ensure it is wind and water tight.
4. Ensure that the wiring and plumbing in the property conform to the current Building Regulations and that the provision of space heating and heating water are in a reasonable state of repair and in proper working order.

5. Provide a mains wired smoke detector in the property.
6. Repair/replace the kitchen floor and floor covering, the tiles in the bathroom and the formica at the kitchen sink to ensure that they are in a reasonable state of repair and in proper working order and that they are capable of being used safely for the purpose for which they are designed.

The Private Rented Housing Committee orders that the work should be carried out within a period of 3 months from the date of service of this notice.

A landlord or a tenant aggrieved by this 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 variation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the variation will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page are executed by Judith V Lea, solicitor, Unit 3.5 The Granary Business Centre, Coal Road, Cupar, Fife, KY15 5YQ, chairperson of the Private Rented Housing Committee at Cupar on 1 February 2011 before this witness:-

R Graham
..... Witness

J Lea Chairman

Rachel Graham
Unit 3.5, The Granary Business Centre
Coal Road
Cupar
Fife