



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Case reference number : PRHP/G72/158/11

Re:- Property at 210 Station Road, Blantyre, Glasgow, G72 9BT ("the property")

Land Register Title Number:- **LAN97366**

The Parties:-

Jack Fortune Limited having their registered offices at 2 Corstorphine High Street,
Edinburgh, EH2 7ST ("the Landlord")

And

Claire Thomson, formerly residing at 210 Station Road, Blantyre, Glasgow, G72 9BT ("the tenant")

Notice to David Henry Jenkins

Whereas in terms of the decision dated 5 July 2012 the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular the landlord had failed to ensure that:-

- (a) The Landlord had failed to ensure the installations in the house for the supply of water, gas and electricity, for sanitation, space heating and heating water were in a reasonable state of repair and in proper working order.
- (b) The appliances within the house were in proper working order and in a reasonable state of repair

The Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purpose of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of the works in terms of the order is made good.

In particular the Private Rented Housing Committee requires the landlord to carry such works as are necessary to:-

- (a) provide an up-to-date report from a qualified central heating engineer on the state of repair and working order of the central heating boiler, central heating

system and hot water system and to carry out any repairs identified in that report to ensure that the boiler and central heating system are in a safe condition and are in proper working order and in a reasonable state of repair;

- (b) To carry out such works as are necessary to repair the washing machine in the kitchen of the property so it is in a reasonable state of repair and in proper working order or to provide a report from a qualified engineer certifying that the said washing machine is in proper working order and in a reasonable state of repair.

The Private Rented Housing Committee orders that the works specified in this Order must be carried out within eight weeks of the date of this Order.

A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the PRHP or the Committee which made the decision.

Where such an appeal is made the effect of the decision or of the order is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the order are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed..... **J Bauld**

Date..... *9 July 2012*

James Bauld, Chairperson

Signature of Witness..... **N Walker**

Date..... *9/7/12*

Name: **NATALIE WALKER**

Address: 7 West George Street, Glasgow, G2 1BA

Designation: **SENIOR COURT ADMINISTRATOR.**



Determination by Private Rented Housing Committee

Statement of Reasons for Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 24 (1) of the Housing (Scotland) Act 2006

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Re:- Property at 210 Station Road, Blantyre, Glasgow, G72 9BT ("the property")

Land Register Title Number:- **LAN97366**

The Parties:-

Jack Fortune Limited having their registered offices at 2 Corstorphine High Street, Edinburgh,
EH2 7ST ("the Landlord")

And

Claire Thomson, formerly residing at 210 Station Road, Blantyre, Glasgow, G72 9BT ("the
tenant")

The Committee comprised:-

Mr James Bauld - Chairperson
Mr Mike Links - Surveyor Member
Mr Chris Harvey - Housing member

Decision

The Committee having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property 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 25 August 2011, Miss Claire Thomson, who was formerly the tenant in the property, applied to the Private Rented Housing Panel for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act.
2. The application made by the tenant stated that the tenant considered the Landlord had failed to comply with their duty to ensure the house met the repairing standard and the tenant stated that the following alleged breaches existed:-
 - a. The central heating system was broken;
 - b. The washing machine was broken;
 - c. The Landlord had failed to provide a freezer as set out in the tenancy contract.
3. The tenant's application was acknowledged on 16 September 2011. On 30 September 2011, the parties were served with a Notice of Referral under Section 22 (1) of the Act. Said Notice was served on both the landlord and the tenant.
4. On or around 2 November 2011, the former tenant telephoned the offices of the Private Rented Housing Panel and advised that she was leaving the property and terminating her tenancy.
5. On 25 November 2011, the Private Rented Housing Committee issued a Notice of Direction on the landlord which required the landlord to provide an up-to-date report by a suitably qualified engineer on the working order and state of repair of the heating system in the house. The Committee required this report to be lodged no later than midday on 19 December 2011. The landlord failed to comply with this Notice of Direction.
6. On 25 November 2011, the Private Rented Housing Committee also issued a Minute confirming the tenant had lawfully terminated her tenancy and that the Committee had determined that the application should continue to be considered by the committee owing to the nature of the allegations made by the tenant.
7. By letter dated 3 February 2012, the Private Rented Housing Committee advised the Landlord that the Private Rented Housing Committee intended to inspect the property on 5 March 2012 at 10am. The letter advised the Landlord that he should ensure that access was available to the Committee for the purposes of carrying out the inspection. The letter further confirmed that a Hearing would be held on the same day within Hamilton House, Caird Park, Hamilton, South Lanarkshire, ML3 0EU at 11am. Said letter and Notice of Referral were served personally upon the Landlord by Sheriff Officers on 7 February 2012.
8. On 5 March 2012, the Private Rented Housing Committee attended at the property for the purposes of the inspection. The Landlord was not present. No representative of the Landlord was present. The Committee were unable to gain access to the property for the purposes of inspection. It was apparent to the Committee from an external inspection that the property was empty and unoccupied. On the same day the Committee held the hearing as previously intimated to the Landlord at Hamilton

House, Caird Park, Hamilton, South Lanarkshire, ML3 0EU. The Landlord failed to attend the hearing. The Landlord was not represented at the hearing.

9. At that hearing the Committee determined as follows:
 - a. That the tenancy of the house had been lawfully terminated and the tenant had confirmed this to the Committee;
 - b. The tenant is to be treated as having withdrawn the application under Section 22 of the Act;
 - c. That the Private Rented Housing Committee considered the application should be continue to be determined given the nature of the allegations made by the tenant which if substantiated were likely to raise health and safety issues for future occupants all in terms of Schedule 2, paragraph 7 (3) of the Act;
 - d. The Committee further determined that they would apply to the court for a warrant in terms of Section 182 (1) of the Act authorising the Private Rented Housing Committee to enter upon the premises and to do so if necessary using reasonable force for the purposes of enabling or assisting the Private Rented Housing Committee to determine the application.

10. On 3 April 2012, Catherine B Craig, Justice of the Peace from the Sheriffdom of South Strathclyde & Dumfries & Galloway at Hamilton granted a warrant authorising the Committee to enter upon the property at 210 Station Road, Blantyre, Glasgow, G72 9BT, and to do so if necessary by using reasonable force, all for the purposes of enabling or assisting the Private Rented Housing Committee to determine the application under Section 24 (1) of the said Act.

11. On 17 May 2012, the Private Rented Housing Committee served, through Sheriff Officers, a Notice of required entry to the property upon the Landlord. Said Notice confirmed to the landlord that the cCommittee had a warrant and would now enter the house using reasonable force. A copy of that notice was also sent to the Landlord's letting agents, Murray & Currie Limited at 26 Thistle Street, Edinburgh, EH2 1EN. Said notice also indicated that a further inspection would take place on 7 June 2012 at 10am and that a sheriff officer and a locksmith would be in attendance on that date and that the committee were prepared to force entry to the property on that date.

12. On 21 May 2012, an email was received at the offices of the Private Rented Housing Panel from the letting agents. They indicated they would make arrangements to attend at the property on 7 June to allow access to be provided. On the basis of the assurances received from the letting agent, the Private Rented Housing Committee decided not to arrange for Sheriff Officers and a locksmith to attend on 7 June.

13. On 7 June 2012, the Committee members attended at the property. After a delay, a representative from the Landlord's letting agent attended and the Committee were allowed access to the property to carry out the inspection. In all the circumstances it was therefore not necessary for the Committee to enforce the warrant which had been granted in relation to his application.

Description

14. The property comprises a ground floor flat in a two storey block which consists of 20 flatted dwelling houses. It is constructed of timber frame with a brick skin. It has a pitched and tiled roof. Internally the flat consists of living room, kitchen, bathroom and two bedrooms.

Inspection

15. At the inspection on 7 June the Committee noted the following points:-
- a. On initially gaining access, it was not possible to check whether the central heating system was working as there was no electricity supply within the flat as the power card within the meter had insufficient funds. Miss Kat Usher, the representative of the Landlord's agents, made arrangements to leave the flat to obtain a top up power card and return to the flat within a short period of time. Power was then restored to the flat and the Committee were able to carry out their inspection;
 - b. The Committee were able to check that the gas boiler appeared to be functioning but could not check whether the whole system was working correctly. They could not check whether radiators were receiving heat from the boiler nor whether hot water was being provided to the system;
 - c. The Committee were able to determine that the washing machine was receiving power from the main supply but had no way of testing whether it was working;
 - d. The Committee were accordingly not able to fully test the central heating system nor the washing machine at the property.

The Hearing

16. The Landlord's agent indicated she did not intend to attend the Hearing and at the Hearing the Landlord was neither present nor represented.

The Decision

17. Having inspected the property and having considered the terms of the tenant's application, the Committee were satisfied that the landlord had failed to comply with the previous direction of the Committee to supply a report from a qualified engineer on the condition and status of the central heating system. The Committee were unable at their inspection to be satisfied that the Central heating system or the washing machine within the property were in proper working order. The Committee noted that the tenant's application contained a complaint that the landlord had failed to provide a freezer in terms of the tenancy agreement. As no tenancy agreement was produced, the committee were unable to determine whether the landlord had failed to comply with the terms of such an agreement.
18. The Committee accordingly determined that the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act in respect of the complaints relating to the central heating system and the washing machine only..
19. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24 (1)(ii) of the Act.
20. The decision of the Committee was unanimous.

Rights of Appeal

21. A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 28 days of being notified of that decision.
22. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP of the Committee which made the decision.

Effects of Section 63

23. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.
24. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **J Bauld**

Date *9 July 2012*

James Bauld, Chairperson

Signature of Witness. **N Walker**

Date *9 July 2012*

Name: **NATALIE WALKER**

Address: 7 West George Street, Glasgow, G2 1BA

Designation: **SENIOR COURT ADMINISTRATOR.**