



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/16/0197

Re : Property at 9/4 Northfield Grove, Edinburgh EH8 7RN ("the Property")

Land Certificate No: MID117078

The Parties:-

Miss Briggette Sally Harrison, residing at 9/4 Northfield Grove, Edinburgh EH8 7RN ("the Tenant")

Kenneth Eadie, residing at 11 Hosie Rigg, Edinburgh EH15 3RX ("the Landlord")

NOTICE TO KENNETH EADIE ("the Landlord")

Whereas in terms of their decision dated 24 August 2016, 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 any fixtures, fittings and appliances provided by the landlord under the tenancy 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 repair or replace all the kitchen cupboards and units, including cupboard doors, so that they 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.

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 24 August 2016, before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

Valerie Clark

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_ witness

George Clark

_ chairman



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

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Re : Property at 9/4 Northfield Grove, Edinburgh EH8 7RN ("the Property/the house")

The Parties:-

Miss Briggette Sally Harrison, residing at 9/4 Northfield Grove, Edinburgh EH8 7RN ("the Tenant")

Kenneth Eadie, residing at 11 Hosie Rigg, Edinburgh EH15 3RX ("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 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 received on 18 May 2016, 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 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.
3. By letter dated 6 June 2016, 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 sent further emails to the Private Rented Housing Panel dated 6,8,14 and 19 June 2016, with copies of email exchanges between the Tenant and the Landlord's agent, an email from the Tenant to the Landlord's agent dated 17 June 2016 and an email from Tim Kennedy to the Private Rented Housing Panel dated 19 June 2016. The Landlord made no written representations to the Committee, but copied to PRHP an e-mail to the Tenant dated 8 June 2016.
6. The Private Rented Housing Committee inspected the Property on the afternoon of 13 July 2016. The Tenant's partner Stephen Wilson represented her at the inspection. The Landlord was present during the inspection and was accompanied by his agent, Jill Cruickshank of Annan Solicitors and Estate Agents, 229 Portobello High Street, Edinburgh EH15 2AN.

7. The Committee comprised George Clark (Chair) and David Godfrey (surveyor member).
8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at George House, 126 George Street, Edinburgh EH2 4HH and heard from both the Tenant and the Landlord. The Landlord was accompanied by Jill Cruickshank.
9. In her application, the Tenant submitted as follows:- She had moved in to the Property on 14 April 2016 with her partner and 3 children. When she had looked at the boiler to switch on the water and heating, she had noticed that there was no Gas Safety Certificate and that the boiler appeared to have been last serviced in 1988. When she lit the pilot lights, the system did not produce heating or hot water. The Landlord had then agreed to install a new heating system and this work had been carried out, but the floorboards had still not been fixed back properly. The toilet was leaking dirty water on to the bathroom floor and it took until 12 May for that to be fixed. The shower did not work and was removed, but it was 2 weeks before the new shower was fitted. The bathroom door did not close properly and did not lock. This had not been attended to by the Landlord despite repeated requests. The Tenant had been requesting sight of an electrical safety certificate for a month, but it had not been produced. There had been asbestos on the inside door of the cupboard where the old boiler had been situated. It was still there and her young children were at risk, as they could access the cupboard. Several kitchen cupboard doors were in a state of disrepair, having been torn off during the installation of the new heating system, and some other cupboard doors were nailed shut. There was a large marble fireplace in the living room which was not secured to the wall. The Tenant had since secured it, as it could have fallen on her children. There was no Energy Efficiency Certificate for the Property. On Moving in, the Tenant had found evidence of drug use, which had been safely disposed of. The Tenant was outraged that the Landlord had been willing to let a house which he knew was not safe. There had been no carbon monoxide detectors in the Property and the Tenant had had to ask for them to be installed. The Tenant had called and e-mailed the letting agents, at times on a daily basis. She had sent an e-mail 3 weeks prior to making the application outlining what needed to be done, but the works still had not been completed. The Tenant also stated that she had only received the Gas Safety Certificate on 13 May 2016. She wanted an Energy Efficiency Certificate to be provided, the old boiler and the asbestos removed, the floorboards safely reinstated, the kitchen cupboard doors repaired, the bathroom door fitted properly, with a lock, and an electrical safety check certificate to be provided. Attached to the application were photographs which appeared to show exposed wiring at the fridge freezer, a defective plug and the asbestos on the inside of the door of the cupboard which housed the old central heating boiler.
10. The Tenant provided the Committee with copies of an e-mail to the Landlord, copied to the letting agents, dated 25 April 2016, outlining the work that still needed to be carried out and e-mail exchanges with the letting agents dated 24 May 2016.
11. At the hearing, the Tenant told the Committee that an electrical inspection had been carried out on 9 April 2016, before the Tenant moved in to the Property, but issues mentioned in the report had not been resolved. In particular, 2 power points had not been earthed. The Tenant also said that the pressure in the boiler was dropping all the time and the landlord's agents had arranged for someone to fix this the day prior to the hearing, but he had not turned up. She also said that the Glow-worm engineer had told her that there was a leak in the pipework somewhere. The Tenant told the Committee that she had not thought to check, before moving in, whether any of the kitchen cupboard doors were nailed shut. The contractors had had to prise them off during the central heating installation work.
12. The Landlord submitted as follows:- The Landlord's agents would reschedule the appointment with the central heating engineer who had not turned up on the previous day and the agents undertook that they would have any necessary work carried out. The kitchen cupboard doors had not been replaced as the Landlord had been unable to source doors that were the correct size. There was, however, ample storage and working space in the kitchen. There was no cash left to put in a new kitchen, so the Landlord did

not plan to do anything. The Landlord's agents said that they would send the Energy Performance Certificate to the Committee. The Landlord accepted that the cover for the fuse box was missing, but added that it could only be replaced by the electricity supply company. The Landlord was happy for the Tenant to contact the supply company to have this done. Everything else was, however, up to date.

Summary of the issues

13. 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

14. The Committee finds the following facts to be established:-
- The tenancy is a Short Assured Tenancy for a period of 12 months commencing 14 April 2016.
 - The Property is a two storey maisonette on the first and second floors above the ground floor of a block of flats numbered 9/1 to 9/17 and 11, 13 and 15 Northfield Grove, Edinburgh.
 - The Tenant accepted at the hearing that the issue regarding the floorboards has been resolved, that the toilet leak has been sorted, that the shower has been replaced, that the bathroom door was replaced earlier in the week of the inspection and hearing, that the door of the cupboard thought to have had an asbestos lining has been removed and the replacement door made secure. The fireplace in the living room has been secured by the Tenant and there is now a carbon monoxide monitor.
 - The kitchen units are in a state of disrepair. A number of drawers are secured shut and a number are missing.
 - The redundant central heating boiler is still in situ in the cupboard off the kitchen. The Committee found no evidence of the presence of asbestos in that cupboard and the lagging material covering the pipes is not asbestos.
 - The fireplace in the living room is not made of marble. It is wooden and is secured to the wall.
 - The Property has adequate smoke detectors, a heat detector in the kitchen and a carbon monoxide detector.
 - The Committee received from the Landlord at the inspection a Domestic Electrical Installation Condition Report in respect of the Property dated 9 April 2016. It contained 4 items marked as Code 3, meaning that improvement was recommended, but no items where danger was present or which were potentially dangerous (Code C1 or C2). The overall assessment was stated to be satisfactory.
 - The Committee has also had sight of an Energy Performance Certificate in respect of the Property dated 20 July 2016. It was provided by the Landlord's agents on 21 July 2016, along with a Job Record from Energy Engineers confirming that they had returned to the Property, topped up the boiler pressure, checked all valves and surface pipework and tightened 3 radiator valves that were leaking. The system had then been tested and found to be working satisfactorily.
 - The Landlord's agents have also forwarded to the Committee a copy of a Gas Safety Record in respect of the 4-burner hob in the Property dated 1 March 2016 and of a Gas Safety Certificate issued by Energy Engineers on 5 May 2016. Both are satisfactory.

Reasons for the decision

15. The Committee was concerned that the Tenant had been put to so much trouble to obtain the necessary reassurances regarding the safety of the central heating boiler. The Energy Performance Certificate was not obtained until after the inspection and hearing and it

should have been a relatively simple matter to have exhibited to the Tenant the Gas Safety Certificate. The Committee accepted, however, that the documentation had now been exhibited and that it was satisfactory. The Committee would have made an Order to have the boiler inspected by a Gas Safe Engineer to ensure that was in proper working order had the Landlord not provided post-hearing the Job Record from Energy Engineers referred to above. The Committee is satisfied that the central heating boiler meets the Repairing Standard.

16. The Committee finds that the kitchen cupboard units do not meet the Repairing Standard. They are not in a reasonable state of repair and are not in proper working order. The Committee noted the comment made by the Landlord that there is still ample kitchen space and storage, but holds that the Landlord has a duty to ensure that all of the cupboards meet the repairing standard, as there was no indication given to the Tenant prior to the commencement of the tenancy that some of the doors were nailed shut and the condition of the cupboards has deteriorated further as a result of the central heating installation work.

Decision

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

Right of Appeal

20. **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

21. 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 24 August 2016
Chairperson



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9/4 NORTHFIELD GROVE, EDINBURGH EH8 7RN

Front elevation



Loose electrical cabling in Kitchen



Electricity meter



Redundant central heating boiler and replacement cupboard door



Kitchen fittings



Kitchen fittings



David Godfrey MRICS

13th July 2016