



REPAIRING STANDARD ENFORCEMENT ORDER

BY THE

PRIVATE RENTED HOUSING COMMITTEE

PRHP Ref: prhp/G13/78/12

PROPERTY

54 Locksley Avenue, Knightswood, Glasgow G13 3NB registered in the Land Register for Scotland under title number GLA36211

PARTIES

Sharon Forrester, residing at the property.

Tenant

and

Bhubinder Singh Burmy and Sawarnjit Kaur Burmy, Spouses, residing formerly at 2 Victoria Park Gardens and now at 188 Southbrae Drive, Glasgow G13 1TX.

Landlord

1. **WHEREAS** in terms of their decision dated 26 September 2012 the Private Rented Housing Committee ('the Committee') determined that the Landlord has failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 ('the Act') and in particular the property fails to meet the repairing standard as set out in section 13(1) of the Act.
2. The Committee now requires the Landlord to carry out such work as is required to ensure the property meets the repairing standard and that any damage caused as a

consequence of carrying out of any works in terms of this Order is also to be made good before the expiry of the Completion Date.

THE ORDER

3. In particular, and without prejudice to the foregoing generality, the Committee **HEREBY ORDERS** the Landlord to carry out the following repairs ('the Works');-
 1. To properly and securely attach the central heating radiator in the hall to the wall and to fix the leaking valve on that radiator.
 2. To secure and properly seal the flue from the combi-boiler in the kitchen and to obtain an up to date gas safety certificate from a suitably qualified Gas Safe Engineer covering all gas installations and appliances at the property and to lodge same with PRHP.
 3. To obtain:
 - a. an up to date electrical installation inspection report from a suitably qualified electrician covering the electrical system and
 - b. PAT Certificates for all electrical appliancesand to lodge same with PRHP.
 4. In the event that any of the Reports obtained indicate or recommend that work is required to the installations or appliances, to carry out such work and comply with such recommendations.
4. The Committee **HEREBY FURTHER ORDERS** that the Works specified in this Order must be carried out and the certificates delivered to the Committee before the **Completion Date** of 28 days from the date of service of this Order.

RIGHT OF APPEAL

5. A Landlord or Tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

EFFECT OF APPEAL

6. In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined **IN WITNESS WHEREOF** these presents consisting of this and the preceding pages are subscribed as follows:-

D Preston
..... Chairman

4/10/12
..... Date of Signing

EUROPA BUILDING
..... Place of Signing

I MacLean
..... Witness

JAIN MACLEAN Name

EUROPA BUILDING Address

1450 ARGYLE ST

GLASGOW

G2 8LW



PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE UNDER RULE 26(1) OF THE PRIVATE RENTED HOUSING PANEL (APPLICATIONS AND DETERMINATIONS)(SCOTLAND) REGULATIONS 2007

In connection with

PROPERTY

54 Locksley Avenue, Knightswood, Glasgow G13 3NB, registered in the Land Register for Scotland under title number GLA36211

PARTIES

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Tenant

and

Bhubinder Singh Burmy and Sawarnjit Kaur Burmy, Spouses, residing formerly at 2 Victoria Park Gardens and now at 188 Southbrae Drive, Glasgow G13 1TX.

Landlord

PRHP Reference: prhp/G13/78/12

Decision

The Committee, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the property, and taking account of the representation by the Tenant as well as the written representations on her behalf, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act").

Background

1. By application dated 4 April 2012 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 she 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 house is wind and watertight and in all other respects reasonably fit for human habitation.
 - 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, fittings and appliances provided by the Landlord(s) under the tenancy are in a reasonable state of repair and in proper working order.
3. In particular the Tenant complained that:
 - The front door locking system did not fit and the door did not lock.
 - The radiator in the hall was unsecured and hanging off the wall.
 - The combi-boiler flue was not secured to an external vent and dust ingress to inside of house (kitchen).
 - The gas fire had been condemned and removed in March 2011 and had not been replaced.
 - The windows in the living room leaked.
 - The electrics were suspect every time the shower is on.
4. By Notice of Referral dated 19 June 2012 the President of the Private Rented Housing Panel ("the President") intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee ("the Committee").

The Committee comprised the following members:

Mr. David M Preston, Legal Member
Mr. Kingsley Bruce, Surveyor Member
Mr Tom Keenan, Housing Member

5. On 5 September 2012, the Committee served Notification of Inspection and Hearing under and in terms of Schedule 2, Paragraph 1 of the Act on the Landlord advising that an Inspection and hearing would take place on 26 September 2012 at 10.00 with a Hearing thereafter.
6. The Committee inspected the Property on the morning of 26 September 2012. On arrival at the property the Tenant was present but she advised that the Landlord had told her that he would arrange for the inspection and hearing to be postponed. The Landlord had not contacted the PRHP administration office for this purpose and in any event, in view of the nature of the complaints, the Committee would not have granted a postponement. The Landlord had no right to make such representation to the Tenant. In any event the Committee was able to carry out its inspection in the presence of the Tenant.

7. Following the inspection a hearing was held at the offices of PRHP at which neither the Tenant nor the Landlord were present. The Tenant had indicated during the inspection that she did not intend to attend the hearing.
8. In addition to the Inspection, the Committee considered the application and copy correspondence from Social Work Services of Glasgow City Council on behalf of the Tenant.

Summary of issues

9. The issue to be determined was whether the property meets the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duty imposed by Section 14(1)(b).

Findings in Fact

10. The Committee finds the following facts to be established:-

- 10.1. The Tenant entered into a lease with the Landlord for the rent of the property in or about 2007, although she had been unable to provide a copy of the lease. She advised that the lease had initially been for one year and had been continued yearly thereafter. This is an assured lease under the Housing (Scotland) Act 1988. The provisions in Chapter 4 of the Act apply.
- 10.2. The Tenant, through the Social Work Department of Glasgow City Council had duly notified the Landlord of the required works to the property as required by the Act.
- 10.3. The property is a first floor flat in a block of four, and comprises three rooms, kitchen and bathroom. The house is not a listed building.
- 10.4. The inspection revealed:
 1. The Tenant reported that the front door had been fixed by the Landlord and on inspection it appeared to function properly.
 2. The radiator in the hall is not properly secured to the wall. An attempt appeared to have been made to do so but the fixing bracket remained insecure. In addition it was noted that water was leaking from the valve.
 3. The combi-boiler flue is not properly attached to the extractor vent and there were signs of dirt on the wall surrounding the outlet pipe.
 4. There is no gas fire in the lounge and a replacement electric heater has been provided. There was no PAT Certificate evident in respect of the heater.
 5. The Tenant reported that the Landlord had replaced one window in the lounge and had attended to the leak in the window surround. There was no evidence of current water ingress at the window.
 6. The Tenant reported that the lights in the living room and kitchen flickered when the electric shower was switched on. The Committee was not qualified to confirm the safety of the shower installation, although on inspection the electrical and wiring in the house appeared to be of some age.
 7. There was a battery operated smoke detector in the hall which was not operating.

Reasons for the decision

11. The Committee was satisfied with the information from the Tenant and from the inspection that the problems raised in the application in respect of the front door and the windows had been attended to and accordingly made no findings in respect of these issues.
12. The radiator in the hall was not properly affixed to the wall and could come loose and cause injury to anyone passing it at that time. The Committee also noted that there appeared to be a leak from the radiator valve which should be attended to. The Committee considered that this radiator failed to meet the repairing standard as a fixture provided by the Landlord which was not in a reasonable state of repair and in proper working order.
13. The flue from the combi-boiler in the kitchen was not properly secured to the external vent and there were signs of dirt on the wall surrounding the vent pipe. This failed the repairing standard as it was not in a reasonable state of repair and could not be said to be in proper working order. The Committee was not provided with an up to date Gas Safety Certificate in respect of the gas installations.
14. While the heater in the living room had apparently been replaced with an electric fire, the Committee was not provided with a PAT certificate and none was evident in respect of this appliance.
15. The Tenant reported that the problem with the shower had not been attended to and the lights in the living room and kitchen still flickered when the shower was switched on. The Committee was unable to test this, but in the absence of any information to the contrary accepted the information from the Tenant. In any event, in the absence of the Committee being provided with an up to date electrical Periodic Inspection Report, it determined that one should be produced to cover the electrical and wiring installations in the house.
16. During the inspection the Committee noted that the only smoke detector in the property was a battery operated one situated in the hall. The Tenant reported that it did not have a battery installed and was not working. The Committee made no finding in respect of the smoke detector as it was not an issue included within the application and accordingly had not been drawn to the Landlord's attention. It is accordingly a matter for the Tenant to pursue that separately, but in the meantime the Committee would draw the parties' attention to the advice and guidance on fire safety issued by the Chief Fire Officer's Association Scotland and Scottish Fire and Rescue Services as well as to section 13(1)(f) of the Act.
17. The nature of the problems found at inspection, while potentially serious to the safety of Tenants, was not considered to be overly complex and could be rectified within a relatively short period of time. In the absence of any representations to the contrary, and from its own experience the Committee determined that a period of four weeks was reasonable for the necessary work to be carried out and reports obtained.

Decision

18. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act insofar as the work specified above is concerned.

19. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) of the Act.

20. The decision of the Committee was unanimous.

Right of Appeal

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

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.

Signature D Preston Chairperson

Date 4/10/12