



Determination by Private Rented Housing Committee

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

Re : Flat 1/1, 4 Queens Crescent, Glasgow, G4 9BW being part of the subjects described in the Disposition by Barrland Investments Limited in favour of Harpal Singh Suman recorded in the Division of the General Register of Sasines for the Barony and Regality of Glasgow on 8th April 1991 ('the Property')

The Parties:-

Miss Eleanor Shaw ('The Tenant')

Harpal Singh residing at 35, Monreith Road, Newlands, Glasgow, G43 2NY ('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 1st August 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 meets the repairing standard.

In particular the application stated that the window in the second bedroom is cracked; also in the second bedroom there is an unsafe structure and the light fitting is melted; there is a fan hole in the bathroom window; a lintel in the living room is falling off; the boiler cover is broken; there is an infestation of bed bugs in the property; the microwave and kettle need to be replaced as they are broken and unsanitary; fire alarms have not been installed; there are cracks in the living room and the bed frame in the smaller bedroom is broken.
3. The President of the Private Rented Housing Panel, having considered the application, referred 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 made written representations to the Committee advising *inter alia* that the Landlord had advised that he would arrange for pest control to treat the property, but this had not happened.

6. The Committee attended at the Property on 13th December 2010. The Landlord was present. The Committee inspected the alleged defects and found as follows:-

- Cracked window in the second bedroom.
The window pane had been replaced.
- Unsafe structure in the second bedroom.
There was a home made loft bed in the second bedroom that was attached to the wall and whilst it was an unusual structure it was in a reasonable state of repair and proper working order.
- Melted light fitting in the second bedroom.
The ceiling light in the second bedroom was in proper working order.
- Fan hole in the bathroom window.
There was a circular hole in the glass in the bathroom, which probably originally housed a ventilator fan.
- A lintel in the living room is falling off.
There was a wooden architrave above the door to a cupboard in the living room, which was coming away from the wall, but was still attached.
- The boiler cover is broken.
The boiler cover was not broken and was in proper working order.
- There is an infestation of bed bugs in the property.
There was no evidence of bed bugs in the property.
- The microwave and kettle need to be replaced as they are broken and unsanitary.
The microwave and kettle had been removed and were no longer in the property.
- Fire alarms have not been installed.
There were hardwired smoke alarms in the property, which were in proper working order.
- There are cracks in the living room.
There were no extraordinary cracks in the property.
- The bed frame in the smaller bedroom is broken.
The bed frame in the second/smaller bedroom was in proper working order.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing in the PRHP offices in Glasgow. They heard from the landlord, in relation to the alleged defects he advised as follows:-

- Cracked window in the second bedroom.
The window pane had been replaced.
- Unsafe structure in the second bedroom.
Approximately five or six years ago one of the tenants at the time had built a loft bed in the second bedroom. It was structurally sound.
- Melted light fitting in the second bedroom.
The ceiling light was working.
- Fan hole in the bathroom window.
The fan hole had been present in the property since he bought the property in 1974. He would be happy to install a ventilator fan if required.
- A lintel in the living room is falling off.
Whilst he acknowledged that the lintel is coming away from the wall he explained that it is not going to break and fall off.
- The boiler cover is broken.
The boiler cover is not broken.
- There is an infestation of bed bugs in the property.
He had intended to have the flat sprayed but the tenant would not provide a forwarding address and consequently he was reluctant to incur the expense of having the treatment carried out.
- The microwave and kettle need to be replaced as they are broken and unsanitary.
These appliances are no longer in the property.
- Fire alarms have not been installed.
There is a hardwired smoke alarm system in the property.

- There are cracks in the living room.
He advised that he was not aware of any cracks.
- The bed frame in the smaller bedroom is broken.
As far as he was concerned the bed frame in the second/smaller bedroom was not broken.

Findings of Fact

8. The second bedroom the window, the loft bed structure, the ceiling light in the second bedroom, the bed frame in the second bedroom and the boiler cover are in a reasonable state of repair and proper working order; there was no evidence of an infestation of bed bugs in the property and no evidence of extra ordinary cracks in the living room; the microwave and kettle were no longer in the property and the property does have a satisfactory provision for detecting fires and giving warning in the event of fire or suspected fire.

The fan hole in the bathroom and the lintel in the living room are not in a reasonable state of repair and are not in proper working order;

Summary of the issues

9. The issues to be determined are whether the condition of the architrave in the living room and the ventilator hole in the bathroom were such that they were not in a reasonable state of repair and proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

Decision

10. The Committee accordingly determined that the Landlord had failed to comply with the duties imposed by Sections 14 (1)(a) and 14(1)(b) of the Act due to the condition of the ventilator hole in the bathroom and the architrave in the living room.
11. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
12. The decision of the Committee was unanimous.

Right of Appeal

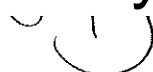
13. A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

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 Taylor

Signed
Chairperson



..... Date 20th December 2010



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re : Flat 1/1, 4 Queens Crescent, Glasgow, G4 9BW being part of the subjects described in the Disposition by Barrland Investments Limited in favour of Harpal Singh Suman recorded in the Division of the General Register of Sasines for the Barony and Regality of Glasgow on 8th April 1991 ('the Property')

The Parties:-

Miss Eleanor Shaw ('the Tenant')

Harpal Singh residing at 35, Monreith Road, Newlands, Glasgow, G43 2NY ('The Landlord')

NOTICE TO

The said Harpal Singh

Whereas in terms of their decision dated 20th Decembr 2010, 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:-

The Landlord has failed to ensure that the fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

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:-

- (1) Install and leave in proper working order an effective ventilator in the bathroom window to replace the existing ventilator hole.
- (2) Undertake all works necessary to make secure or remove the defective architrave in the living room.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of four 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.

Signed..... **J Taylor** Date 20th December 2010

Chairperson..... **E Shedden** witness: ELIZABETH GIFFEN SHEDDEN, 65, High Street, Irvine