



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP/RP/14/0018

TITLE NUMBER: MID74944

Re: The residential dwellinghouse at

**10 Combfoot Cottages
Mid Calder
EH53 0AD**

("the Property")

The Parties:-

**Mr Iain Hunter
resident at the Property**

("the Tenant")

and

**Ms Shirley Connolly
51 Happy Valley Road
Blackburn
EH47 7RB**

("the Landlord")

The Committee comprised:

**Mr Ron Handley – Chairperson
Mr Ian Murning – Surveyor
Mr John Blackwood – Housing Member**

NOTICE TO THE LANDLORD

In terms of their decision dated 6 May 2014, 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 that the Landlord had failed to ensure that:-

- (i) the Property was wind and watertight and in all other respects fit for human habitation;
- (ii) the installations in the Property for the supply of water, gas and electricity, sanitation and space heating and heating water were in a reasonable state of repair and in proper working order;
- (iii) any fixtures, fittings and appliances provided by the Landlord were capable of being used safely for the purpose for which they are designed;
- (iv) the Property had satisfactory provision for detecting fires and giving warning in the event of fire or suspected fire.

The Private Rented Housing Committee now requires the Landlord to carry out the following works (or other such works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard):-

- (a) carry out such works as are necessary to repair the Gas Central Heating System to ensure that it is in proper working order;
- (b) replace the Carbon Monoxide Detector and ensure that the replacement is in proper working order;
- (c) replace the seal surrounding the bath and ensure that it is watertight;
- (d) carry out repairs/replacement to the front door to ensure that it is wind and watertight;
- (e) provide the Committee with a valid Landlord's Gas Safety Certificate which relates to the system for space heating and heating water within the Property;
- (f) install a within the Property a hardwire smoke detector(s) so as to ensure that there is adequate provision for detecting fires and for giving warning in the event of fire or suspected fire and provide written evidence from a suitably qualified electrician confirming that the smoke detector(s) has been tested and found to be satisfactory for the Property;
- (g) make good any damage resulting from the remedial works carried out in accordance with this Order.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within 6 weeks of the date of service of the Order on the Landlord.

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

and the Order will be treated as having effect from the day on which the Appeal is abandoned or so determined.

In witness whereof this and the preceding pages are subscribed by Ronald G Handley, Solicitor and Chairperson of the Private Rented Housing Committee on 6 May 2014 before this witness:

J Handley

witness

R Handley

chairperson

JANE HANDLEY name of witness

LESLIE WAY address of witness

DUNBAR



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

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The Committee's 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, and taking account of the evidence before it, unanimously determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b).

Background

1. On 21 January 2014 the Tenant applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlord had failed to comply with the duties imposed by Section 14(1) (b) of the Act.
2. Following receipt of the Tenant's application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee in accordance with Section 22(1) of the Act.

The Application

3. In his application the Tenant alleged that the Landlord had failed to comply with the duty to ensure that the Property met the Repairing Standard (as defined in the Act).
4. In particular the Tenant submitted in his Application Form that:
 - (i) A Gas Safety Certificate has not been issued and no gas safety check has been carried out since November 2012.
 - (ii) There was no working Carbon Monoxide Detector within the Property.
 - (iii) The heating needed "topping up" all the time and bled every day.
 - (iv) The hot water supply did not work.
 - (v) The seal around the bath was coming off and consequently water would be leaking into the flat below.
 - (vi) The entrance door was not wind and water tight.
 - (vii) The Property does not have satisfactory provision for detecting fires and giving warning in the event of fire or suspected fire.

The Evidence

5. The Committee had before it various documents which included documents from Registers Direct, a copy of the Tenancy Agreement, a copy of the Application Form, a letter sent by the Tenant to the Landlord intimating details of the issues referred to in the Application Form, copies of various e-mails, Written Submissions on behalf of the Tenant and a Report dated 14 February 2014 from Gasglow Limited (made available by the Tenant in the course of the inspection).

The Inspection

6. The Committee noted that intimation of the date and time of the inspection (and the Hearing) had been sent to the Landlord. At 10:30am the Committee duly attended at the Property – the Tenant was in the Property awaiting the Committee. At 10:40am the Landlord had not attended and she had not contacted the PRHP offices to advise that she would not be attending the inspection. In the absence of any other information the Committee determined that the inspection should proceed.
7. The Chairperson introduced the Committee to the Tenant and reminded him that the Committee were concerned with the issues which had been referred to in the Application Form and intimated to the Landlord.
8. In the course of the inspection the Tenant advised that he had not been issued with a Gas Safety Certificate. He explained that the gas fire in the living room was not working. Furthermore the gas central heating was not working and never had been. He did not have access to any hot water. Although there was a Carbon Monoxide Detector in the bedroom, it was not working. He also drew the Committee's attention to the seal around the bath and suggested that it required to be replaced. The Tenant advised that the front door was not wind or water tight.
9. At the inspection the Tenant confirmed that he would be attending the Hearing scheduled to take place at 11:30am in Howden Park Centre, Howden, Livingstone.

The Hearing

10. The Tenant duly attended the Hearing and was accompanied by his friend, Mr Stephen Keenan. The Chairperson summarised the background to the application and reminded the Tenant that the Committee were concerned with whether or not the Property met the Repairing Standard. He also reminded the Tenant that the Committee could only take account of the issues that had been intimated to the Landlord in accordance with the Act.
11. The Committee confirmed that it appeared from the inspection that the Repairing Standard had not been met. The Committee accepted that the central heating system was not in proper working order. It was also accepted that the Carbon Monoxide Detector was not functioning and that the seal surrounding the bath required to be replaced. It was accepted that the entrance door was not wind and watertight.

Summary of the issue

12. The issue to be determined by the Committee was whether the Landlord had complied with the requirements of the Act to ensure that the Property met the Repairing Standard.

Findings

13. The Committee found the following facts to be established:
- On 9 November 2012 the Tenant and the Landlord entered into a Tenancy Agreement that related to the Property. A Tenancy Agreement is still in place between the parties.
 - The Property is located on the upper floor of a block of four flatted dwelling houses. The Property comprises a living room, bedroom, kitchen, bathroom and a hallway.
 - A gas central heating system has been installed within the Property but it is not in a reasonable state of repair or in proper working order.
 - A Carbon Monoxide Detector has been installed within the bedroom but it is not in a reasonable state of repair or in proper working order.
 - The seal surrounding the bath is defective and needs to be replaced.
 - The entrance door is not wind and water tight and requires to be repaired or replaced.
 - The Property does not have satisfactory provision for detecting fires and giving warning in the event of fire or suspected fire.

Reasons for the Decision

14. The Property should be heated by the gas central heating system installed within the Property. The Tenant advised that the system had not been working for some time and it was not working at the time of the inspection. As indicated, the Committee had available a report of 14 February 2014 from Gasglow Limited. The author of this report confirms that repairs are required to the gas central heating system. The Committee accepted that the gas central heating system was not in a reasonable state of repair or in proper working order.
15. The Committee noted that the Landlord had not made available a copy of the Gas Safety Certificate.
16. A Carbon Monoxide Detector is located within the bedroom (as is the central heating boiler). The Committee attempted to test the Detector and found that it was not in proper working order.
17. The Tenant suggested (in his Application Form and during the inspection) that the seal surrounding the bath was defective and needs to be replaced. On inspecting the seal the Committee had no hesitation in finding that it requires to be replaced. Indeed it is likely that this defect will result in water ingress in the flat below the Property.

18. The Tenant has submitted (in his Application Form and during the inspection) that the front door is defective and is not wind and water tight. He advised that it had been necessary to fit a curtain at the top of the stairs to reduce drafts. On inspecting the front door the Committee had no reason to doubt that it is not in a reasonable state of repair and is not wind and watertight.
19. In the course of the inspection the Tenant drew the attention of the Committee to the smoke alarm which had been installed in the hallway which was battery operated and not "hard wired". The Committee accepted that the smoke detector was not hard wired as it should be.
20. In the course of the inspection the Tenant drew the attention of the Committee to the gas fire in the living room advising that it did not work. The Committee accepted that the gas fire was not working properly. However this issue had not been intimated to the Landlord and accordingly the Committee were unable to take account of it. Nonetheless the Committee were of the view that it would be in the interests of both parties if this relatively minor issue was attended to.

Decision

21. The Committee determined that the Landlord had complied with the duty imposed by section 14(1)(b) of the Act. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) of the Act.
22. The decision of the Committee was unanimous.

Right of Appeal

23. A Landlord(s) or Tenant (s) aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63

24. 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. 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 **R Handley** Date 6 May 2014
 Chairperson