



A Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/14/0082

Re : Property at 4 Midfield Terrace, Steelend, Dunfermline, KY12 9NB (“the Property”)

Land Register Title Number: FFE54905

The Parties:-

Mr James Davidson, 4 Midfield Terrace, Steelend, Dunfermline, KY12 9NB (“the Tenant”)

Mr Mordecai Bamburger, 15 Belmont Drive, Giffnock, G46 7NZ (“the Landlord”)

NOTICE TO
Mr Mordecai Bamburger, 15 Belmont Drive, Giffnock, G46 7NZ

Whereas in terms of their decision dated 17 September 2014, The Private Rented Housing Committee having 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 that the Landlord has failed to ensure that:- the property is wind and water tight and in all other respects reasonably fit for human habitation, that the structure and exterior of the property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order, the installations in the property 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 and 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 requires the Landlord to carry out such work as necessary for the purposes of ensuring that the property 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. Repair/Replace the broken yale lock on the front door and/or ensure that the mortice locking mechanism is in proper working order and that the door is able to be secured by the tenant.
2. Repair/Replace the combi boiler at the property to ensure that the central heating and hot water systems are in proper working order and provide a gas safety certificate.
3. Repair/Replace the damaged ceiling panels in the living room to ensure that they are in a reasonable state of repair.

4. Replace the bathroom sink.
5. Have a qualified electrician check the electrical installations in the kitchen to ensure that there is an adequate and safe electric supply to any cooking appliances and provide an electrical safety certificate.

The Private Rented Housing Committee orders that the work should be carried out within a period of four weeks from the date of service of this notice.

A landlord or a tenant aggrieved by this 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 variation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the variation will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page are executed by Judith V Lea, solicitor, Unit 3.5 The Granary Business Centre, Coal Road, Cupar, Fife, KY15 5YQ, chairperson of the Private Rented Housing Committee at Cupar on 17 September 2014 before this witness:-

R Graham

..... Witness

J Lea

..... Chairman

Rachel Graham
Unit 3.5, The Granary Business Centre
Coal Road
Cupar
Fife

J Tayl



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

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Land Register Title Number: FFE54905

The Parties:-

Mr James Davidson, 4 Midfield Terrace, Steelend, Dunfermline, KY12 9NB (“the Tenant”)

Mr Mordecai Bamburger, 15 Belmont Drive, Giffnock, G46 7NZ (“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 property concerned, and taking account of the evidence lodged by both the Landlord and the Tenant, and having inspected the property, 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 20 March 2014 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 property meets the repairing standard and in particular that the Landlord had failed to ensure that the property was wind and water tight and in all other respects reasonably fit for human habitation, that the structure and exterior of the property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order, that the installations in the property 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 and 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.

3. The President of the Private Rented Housing Panel intimated a decision to refer the application under Section 23 (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. The Private Rented Housing Committee (comprising Ms Judith Lea, Chairman and Legal Member, David Hughes Hallet, Housing Member and Geraldine Wooley, Surveyor Member) inspected the Property on 8 September 2014. The Tenant was present and accompanied by Michelle Paterson (his neighbour who has been helping him with his application) and another neighbour, Linda Carrey. The Landlord was not present or represented at the inspection.
6. After the inspection of the Property the Private Rented Housing Committee held a hearing at Blairhall New Community Centre, 10 Wilson Street, Blairhall, KY12 9PS. The Tenant was not in attendance but was represented by Michelle Paterson. The Landlord was not present or represented.
7. The Committee confirmed with the Tenant at the inspection that he was happy for Michelle Paterson, his neighbour and friend, to represent him at the hearing. The Notice of Inspection and Hearing had been served on the Landlord by recorded delivery at his registered address but had been returned marked "not called for". However the Landlord was sent an email advising him of the date and venue of the inspection and hearing and responded to the email on 5 September 2014. The Landlord also had a telephone conversation with the Private Rented Housing Panel's Clerk who advised him of the time and place of the inspection and hearing. The Committee was accordingly satisfied that the Landlord had had sufficient notice of the inspection and hearing and determined to proceed in his absence.
8. The Committee noted the terms of the email sent by the Landlord on 5 September 2014. The Committee then heard representations from Michelle Paterson on behalf of the Tenant.
9. Ms Paterson indicated that the Landlord had contacted somebody about getting a new boiler. She confirmed that the central heating system had been installed some years ago but she was not sure who had installed it. The combi boiler had not been working for months and although the Landlord had applied for a new boiler and Mr Davidson was on the waiting list, nothing had happened. Ms Paterson stated that she was very concerned about the Tenant continuing to live in the property with no hot water or central heating, especially with winter approaching.
10. Ms Paterson confirmed that she had spoken to the Landlord about the front door and his position was that the Tenant was not locking it properly. Ms Paterson confirmed that the lock on the door which had been used was always the yale lock. She confirmed she had not spoken to the Landlord about the flooring. Ms Paterson also confirmed that the electric fire in the property belonged to the

Tenant but he was afraid to use it because of the cost. The fireplaces in the property had not been used for years and there was a hole between the fireplace and back boiler in the living room. Ms Paterson considered that it would be unsafe for the Tenant to use the open fireplaces.

11. In connection with the bathroom sink, this is a matter raised by the Council. The cooker belonged to the Tenant but it was broken. Ms Paterson however stated that she did not think that the Tenant would be able to use a cooker in any event and she had brought him a stove top and microwave. Ms Paterson indicated that the Landlord had not provided any appliances in the kitchen and that she had concerns that the electrics on the external wall of the kitchen did not work. Ms Paterson stated that her main concern was the lack of any heating or hot water in the property which was detrimental to the Tenant's health.

Decision

12. The Committee considered each of the matters raised by the Tenant in the application:-
13. Lock on the Front Door
Ms Paterson confirmed that she had verbally advised the Landlord of the problem with the lock on the door prior to the application being taken to the Committee. It was clear from inspection that the yale lock on the front door is broken and not in proper working order. There is also a mortice lock in the door but Ms Paterson confirmed that the Tenant did not have the key and so far as she was aware had not ever had a key for this lock. It was not possible for the Committee to ascertain from inspection whether this lock was working. The Committee consider that there is an obligation on the Landlord to provide a front door which is lockable. On the basis of the inspection and the submissions made, the Committee found that the Landlord has not provided a front door that is presently capable of being locked. This is accordingly a breach of Section 13(1)(d) of the Repairing Standard and the Committee proceeded to make an order.
14. Hot Water and Heating within the property
The Landlord confirmed in his email of 5 September 2014 that he had installed the central heating in the property. He also indicates in his email that it had been agreed that he was not responsible for the upkeep or repair of it. He has however not provided any evidence of this. In any event a Landlord has an obligation to provide a safe system of heating and hot water for any property that is let. There are open fireplaces in the property but these have not been used for many years and may not be in safe working order. The only other form of heating in the property is an electric fire which belongs to the Tenant and has not been provided by the Landlord. The Tenant also advised that so far as he was aware there had been no annual gas safety checks on the central heating system. The Landlord has a responsibility to obtain a gas safety certificate on an annual basis. The Committee considered that the lack of heating and hot water in the property was of serious concern and was a breach of Section 13(1)(c) of the Repairing Standard. The Committee accordingly proceeded to make an order in respect of this matter.

15. Ceiling in the Living Room

It was clear from inspection that the living room ceiling is in a state of disrepair with the decorative coating peeling off damaged and warped plywood panels. It also appeared to the Committee that there is no proper seal between the living room and the loft space. This damage apparently was caused by a leak in the roof some time ago. There is no evidence of an ongoing leak but the ceiling has never been repaired. The Committee considered this to be a breach of Section 13(1)(a) and/or (1)(b) of the Repairing Standard. The Committee accordingly proceeded to make an order.

16. Bathroom Sink

It was clear from inspection that there are cracks in the bathroom sink which go all the way through the unit. There was no evidence of any leak from the sink but it is clearly not in a reasonable state of repair and is unrepairable. The Committee accordingly proceeded to make an order. The other bathroom fittings are also in need of repair but were not included in the application

17. State of the Kitchen

It was clear from inspection that the Landlord has not provided a proper kitchen at all. The Tenant confirmed that the cooker in the property which is presently not working belongs to him. He confirmed that all the other items in the kitchen were his and nothing was provided by the Landlord. This is probably due to the historical length of the tenancy. A Landlord however has an obligation to provide a Tenant with the means of cooking and the necessary power to enable cooking devices to run. The kitchen is in an extremely poor state of repair and requires maintenance and upgrading. It would also appear that there may be sockets in the kitchen which are not currently working. The Committee had concerns with regard to the safety of the electrical installation in the kitchen and consider that this a breach of Section 13(1)(c) of the Repairing Standard and proceeded to make an order.

18. In connection with the flooring, there was no evidence before the Committee to suggest that the Landlord had previously been notified of this problem. There was also no evidence on inspection of damaged floorboards. However the carpet tiles could be a trip hazard and it would be advisable for the Landlord to replace these. The Committee also noted that there was a battery smoke alarm in the hall of the property. This does not meet the standard currently required in terms of Section 13(1)(f) of the Act and the Committee accordingly would recommend that the Landlord arrange an early replacement of this with a hard wired system.

19. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

20. The Committee proceeded to make a Repairing Standard Enforcement Order in respect of numerous issues as required by section 24(1).

21. As these matters have been outstanding for some time and due to the fact that the Tenant will require hot water and heating before the winter sets in, the Committee ordered that these works be undertaken within a period of four weeks.

22. The decision of the Committee was unanimous.

Right of Appeal

23. 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

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, 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 Lea**
Chairperson

.....Date...17 September 2014