



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re Flat 6, 30 Greenlaw Drive, Paisley, PA1 3RU being the subjects registered in the land Register of Scotland under Title Number REN53738 ('the Property')

The Parties:-

Sharon Caldwell residing at 30 Greenlaw Drive, Paisley, PA1 2RU ('The Tenant')

Leslie Gray and Gillian Gray both of Farmfield House, Law Brae, West Kilbride represented by Castle Residential, 63 Causeyside Street, Paisley ('The Landlords')

NOTICE TO

Leslie Gray and Gillian Gray both of Farmfield House, Law Brae, West Kilbride represented by Castle Residential, 63 Causeyside Street, Paisley

Whereas in terms of their decision dated 22nd September 2014, the Private Rented Housing Committee determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular the Landlords have failed to ensure 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 proper working order;

The Private Rented Housing Committee now requires the Landlords to carry out such work as is necessary for the purposes of ensuring that the Property 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 Landlords to:-

1. Replace the controls that are missing from the storage radiators to ensure that the radiators can be used for space heating in the manner intended.

The Private Rented Housing Committee order that these works must be carried out and completed By 30th NOVEMBER 2014.

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 22nd September 2014
JACQUELINE TAYLOR, Chairperson
K Byrne witness: KEIRSTEN BYRNE, 65, High Street, Irvine



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 6, 30 Greenlaw Drive, Paisley, PA1 3RU being the subjects registered in the land Register of Scotland under Title number REN53738 ('the Property')

The Parties:-

Sharon Caldwell residing at 30 Greenlaw Drive, Paisley, PA1 2RU ('The Tenant')

Leslie Gray and Gillian Gray both of Farmfield House, Law Brae, West Kilbride represented by Castle Residential, 63 Causeyside Street, Paisley ('The Landlords')

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 10th June 2014 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords have failed to comply with the duties imposed by Section 14 (1)(b) of the Act.
2. The Tenant's application stated that she considered that the Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. She advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the Property was not 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 not in a reasonable state of repair and in proper working order and the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

In particular the application stated that:

- 2.1 There is a hole in the living room ceiling which lets in water.
 - 2.2 The radiators have no thermostat controls.
 - 2.3 There is no smoke alarm.
 - 2.4 The living room light does not work.
 - 2.5 The windows, although they have been replaced, have issues with the frames and are not fully windproof.
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. The Committee members were Jacqui Taylor (Chairperson), Alex Carmichael (Surveyor Member) and Colin Campbell (Housing Member).
 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 Landlords and the Tenant, dated 10th July 2014.

5. The Committee attended at the Property on 9th September 2014. The Tenant and her representative Kevin Montgomery of CAB were present. Leslie Gray, one of the Landlords, together with Gemma McFarlane and Jacqueline McLelland of Castle Residential were also present at the inspection.

The Property comprises a four apartment flat situated on the top floor of a three storey six flatted block which is estimated to be forty years old. The Property appears to be of traditional construction with brick solid and brick cavity outer walling with outer roughcast finish. The roof is flat and finished with felt.

The Committee inspected the alleged defects and found as follows:-

5.1 There is a hole in the living room ceiling which lets in water.

The parties advised that a temporary repair to the roof had been carried out in July 2014. The Tenant confirmed that since that repair had been completed there had been no water ingress in the living room.

5.2 The radiators have no thermostat control.

At the inspection radiator control knobs were missing.

5.3 There is no smoke alarm.

Hardwired and inter connected smoke alarms/ heat detectors had been installed in the kitchen, hall and living room.

5.4 The living room light does not work.

The living room light is located close to the hole in the ceiling referred to at point 5.1 above. The parties agreed that it no longer works due to the historic problems of water ingress.

5.5 The windows, although they have been replaced have issues with the frame and are not fully windproof.

The existing windows were replaced with modern sealed UPVC double glazed units on or around October 2013. During the inspection the Committee noted minor cosmetic, decorative defects to the ingo and cover facings.

6. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The PRHP Offices, Europa Building, 450 Argyle Street, Glasgow, G2 8LH. The Tenant and her representative Kevin Montgomery of CAB were present. Leslie Gray, one of the Landlords, together with Gemma McFarlane and Jacqueline McLelland of Castle Residential attended the hearing.

In relation to the matters detailed in the Tenant's application the Landlord and the Tenant advised as follows:

6.1 There is a hole in the living room ceiling which lets in water.

The Tenant explained that at the time she had submitted her application to the PRHP there was a leak in the living room ceiling however there has been no water ingress since the temporary repair to the roof has been completed earlier in the year.

The Landlord advised that the factor has obtained quotations to replace the roof and he believes that the estimated cost will be approximately £18,000. However he is not sure of the timescale involved for completion of the new roof. He had instructed the temporary repair to the roof in July 2014 and suspects that the temporary repair will have a life of 6 or 12 months.

6.2 The radiators have no thermostat control.

The Tenant explained that the radiators were repaired by the Landlords' contractor on 30th October 2013 but no control knobs were fitted. She provided the Committee with a photograph dated 31st October 2013 showing that there were no control knobs fitted to a radiator. She also explained that she had not been provided with an inventory at the start of her lease.

The Landlord advised that his contractor CMC Electrical installed replacement thermostat controls on 30th October 2013. He provided the Committee with a copy invoice from CMC Electrical for this work.

The Committee asked the Landlord if he had inspected the property after CMC Electrical had carried out the repair. He explained that he had not inspected the property but he has used this contractor for over 20 years and had no doubt that the work was done.

6.3 There is no smoke alarm.

The parties confirmed that compliant smoke alarms/ heat detectors have been fitted.

6.4 The living room light does not work.

The Landlord advised the Committee that he accepted that the living room light does not work. The Tenant accepted that there was no point having the light repaired until the roof repair was carried out. The landlord offered to purchase alternative lighting but the Tenant advised that this was not necessary.

6.5 The windows, although they have been replaced have issues with the frame and are not fully windproof.

The parties explained that new UPVC windows had been installed. The Tenant confirmed that the new windows do not let in water however they are draughty. The Landlord advised that his contractor will be repairing the wooden window facings tomorrow.

Summary of the issues

Therefore the issues to be determined are:-

7.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

Whether the hole in living room ceiling and the state of repair of the windows results in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

7.2 That the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order (Section 13(1)(c) of The Housing (Scotland) Act 2006).

Whether the radiators are in a reasonable state of repair and proper working order

7.3 That the fixtures, fittings and appliances provided by the Landlords under the tenancy were not in a reasonable state of repair and in proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

As the parties had agreed that there was no need to repair the living room light the Committee did not consider this part of the Tenant's application further.

7.4 The Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (section 13(1)(f) of The Housing (Scotland) Act 2006).

Whether there is satisfactory provision for detecting fires and for giving warning in the event of fire or suspected

Findings of fact

8.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

The Committee found that the temporary repair to the roof had been effective and there was no longer a leak in the living room ceiling.

However the Committee understood that the Property has not been reroofed in 26 years and they expect there to be ongoing roof issues if the roof covering is not replaced.

The Committee found that as the living room ceiling does not leak its condition does not result in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

The Committee were satisfied that the windows did not let in water and the sealing required to the window facings was a cosmetic/ decorative requirement.

The Committee found that the condition of the windows does not result in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

8.2 That the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order (Section 13(1)(c) of The Housing (Scotland) Act 2006).

The Committee found that the absence of the control knobs on the radiators resulted in the radiators not being in a reasonable state of repair and proper working order.

They acknowledged that section 16(1)(b) of the Housing (Scotland) Act 2006 provides that the Landlords are not required to carry out work for which the Tenant is liable by virtue of the Tenant's duty to use the house in a proper manner. The Committee considered both parties evidence in relation to the control knobs. The Tenant's evidence was that the control knobs were missing at the commencement of her tenancy. The Landlord's position was that the control knobs had been removed during the tenancy without the Landlords' knowledge or consent. The Committee were surprised that the parties had not agreed an inventory at the outset of the lease which would have clarified the position. The Committee were unable to decide whether the Tenant's evidence or the Landlord's evidence was correct. As no inventory had been prepared the Committee were unable to apply the terms of the said section 16(1)(b).

8.3 The Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (section 13(1)(f) of The Housing (Scotland) Act 2006).

The Committee found that there is satisfactory provision for detecting fires and for giving warning in the event of fire or suspected.

Decision

9. The Committee accordingly determined that the Landlords have failed to comply with the duties imposed by Sections 13 (1)(c) and 14 of the Act, as stated.
10. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
11. The decision of the Committee was unanimous.

Right of Appeal

- 12. 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

13. 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 22nd September 2014
Chairperson