



Determination by Private Rented Housing Committee

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

Ref prhp/rp/15/0337

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 by Rowland Ziervogel residing at Flat 5 /2, 79 Port Dundas Court Glasgow, G4 0HF formerly the Tenant of the Property against John Hood residing at Flat 11, 62, Saltoun Street, Glasgow, G12 9BE ("the Landlord") per his Agents, Contempo Property, 9 Newton Place, Glasgow, G3 7NB ("the Agent")

Re: Flat 5 /2, 79 Port Dundas Court Glasgow, G4 0HF ("the Property")

Committee Members

Karen Moore (Chairperson)

Mike Links (Surveyor Member)

Background

1. By application dated 4 December 2015 ("the Application"), Mr. Ziervogel applied to the Private Rented Housing Panel for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (d) of the Act.
2. The President of the Private Rented Housing Panel, having considered the application, intimated to the parties by Notice of Referral dated 30 December 2015, a decision under Section 23 (1) of the Act to refer the Application to a Private Rented Housing Committee ("the Committee"), and, in terms of Schedule 2, Paragraph 1 of the Act fixed an Inspection and Hearing for 22 February 2016 at 11.30 a.m. and 2.00 p.m. respectively.

Initial Inspection, Hearing and RSEO

3. An Inspection took place on 22 February 2016 at 11.30 a.m. at the Property and a Hearing was held at Wellington House, 134/136, Wellington Street, Glasgow on 22 February 2016 at 2.00 p.m, following which the 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 the Property is wind and watertight and otherwise reasonably fit human habitation and 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, that any fixtures and fittings

provided by the Landlord under the tenancy are in a reasonable state of repair and working order. Subsequent to that decision the Committee imposed a Repairing Standard Enforcement Order ("RSEO") dated 29 February 2016.

Re-Inspection

4. The Surveyor Member of the Committee re-inspected the Property on 27 April 2016 and found that the RSEO had been complied with in part. In particular, the fridge freezer, the cooker hood and the WC flush had been repaired. However, the works required to the flooring in the kitchen, the washing machine and the dishwasher remained outstanding.
5. The Surveyor Member's re-inspection report was intimated to both Mr. Ziervogel and the Landlord per his Agent.
6. Both Mr. Ziervogel and the Landlord advised the Committee that Mr. Ziervogel had vacated the Property on 1 July 2016. As Mr. Ziervogel was no longer a tenant, Mr. Ziervogel is no longer party to these proceedings.
7. The Landlord per his Agent requested a further Hearing, which was fixed for 6 July 2016. The Landlord per his Agent requested an adjournment of the Hearing as works had been instructed and delayed pending an insurance claim.
8. The Committee agreed to the adjournment and an Inspection and Hearing were fixed for 20 July at 11.30 a.m. and 2.30 p.m. respectively. On 19 July 2016, the Landlord per his Agent requested a further adjournment of the Hearing as the insurance claim had not yet been settled, however, the Committee declined to agree to this request due to the lateness of its receipt.

Further Inspection and Hearing

9. A Further Inspection took place on 20 July 2016 at 11.30 a.m. at the Property. Mr Alan Govan, Landlord's Agent was present. The Committee inspected the following:

The flooring in the kitchen;

The washing machine and

The dishwasher.
10. The Committee took digital photos of the Property which form the Schedule annexed.
11. At the Further Inspection, Mr Govan advised the Committee that the Landlord continued to pursue an insurance claim in respect of the dampness and water ingress to the kitchen floor. Mr Govan advised the Committee that the outcome of the claim should be known shortly and that the Landlord had instructed him that if the claim were unsuccessful, the Landlord would meet the cost of the repair.
12. Following the Further Inspection, a Hearing was held at Wellington House, 134/136, Wellington Street, Glasgow on 20 July 2016 at 2.30 p.m, a hearing took place. Neither the Landlord nor his Agent was present.

Summary of the Issues

13. The issues to be determined by the Committee are (i) whether or not the Property meets the Repairing Standard in respect of Sections 13 (1) (d) of the Act at the date of the Inspection and Hearing, in particular whether the dishwasher and washing machine in the

Property are all in a reasonable state of repair and in proper working order and (ii) whether or not Property meets the Repairing Standard in respect of Sections 13 (1) (a) of the Act at the date of the Inspection and Hearing , in particular whether there is dampness in the kitchen

Findings of Fact

14. John Fenton Christie Hood, along with Sally Elizabeth Hood, is a co-owner of the Property under title number GLA171662.
15. From the Further Inspection, the Committee found the following:
 - The chipboard floor in the kitchen has been uplifted to expose that pipes and it appears that repair works are underway to remedy dampness and water ingress ;
 - The washing machine and dishwasher have both been replaced;
- Decision of the Committee
16. The Committee's decision was based on the terms of the RSEO, the Re-Inspection and Report thereon and the Further Inspection.
17. In respect of compliance with the RSEO, Committee found that this had been complied with in part and that the only matter outstanding was the dampness and water ingress in the kitchen. The Committee noted the Landlord's intention to comply with this part of the RSEO and so determined to vary the RSEO to allow the Landlord further time to do so. The Committee considered that four week was sufficient time.
18. This decision is unanimous.

Right of Appeal

19. 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.
20. Where such an appeal is made, the effect of the decision and of any repairing standards enforcement 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 any repairing standards enforcement order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

K Moore

Karen Moore, Chairperson

Date 25 July 2016

This is the schedule referred to in
the foregoing decision

K Moore

SCHEDULE OF PHOTOGRAPHS

25/7/16

FLAT 5/2, 79 PORT DUNDAS RD, GLASGOW G4 0HF



Kitchen Floor



New washing machine



New dishwasher machine



Variation of a Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

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Re: Flat 5 /2, 79 Port Dundas Court Glasgow, G4 0HF ("the Property") registered in the Land Register of Scotland under Title Number GLA171662

Committee Members

Karen Moore (Chairperson)

Mike Links (Surveyor Member)

NOTICE TO THE LANDLORD

John Hood residing at Flat 11, 62, Saltoun Street, Glasgow, G12 9BE ("the Landlord") per his Agents, Contempo Property, 9 Newton Place, Glasgow, G3 7NB

Whereas in terms of their decision dated 29 February 2016, the Private Rented Housing Committee ("the 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 the Property is wind and watertight and otherwise reasonably fit human habitation and 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, that any fixtures and fittings provided by the Landlord under the tenancy are in a reasonable state of repair and working order and subsequent to that decision the Committee imposed a Repairing Standard Enforcement Order dated 29 February 2016 ("the RSEO") requiring the Landlord to carry out certain works and whereas the Committee in terms of their further decision dated 25 July 2016 determined to vary the RSEO, the Committee now require the Landlord to do the following:-

The Landlord must on or before 19 August 2016:-

1. Engage a suitably qualified building professional to identify the cause of the dampness and water ingress in the kitchen flooring area, thereafter, carry out such works as are required to remedy the dampness and water ingress and renew the kitchen floor covering;

A Landlord or a Tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within twenty one 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.

In Witness Whereof these presents printed on this and the preceding page are subscribed by Karen Moore, Chairperson, at Glasgow on 25 July 2016 before this witness, Norman William Moore, solicitor, Cumbernauld.

W Moore *Witness*

K Moore