



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/16/0048

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 ("the Act") by Julie Anne Lannigan residing at 23 Ard Road, Renfrew, PA4 9DD ("the Tenant") per agent, Fiona Brown, Shelter Scotland, 10 Falcon Crescent, Paisley, PA3 1NS ("the Tenant's Agent") against

Younis Mohammed (otherwise Mohammed Younis) sometime at 34 Carmichael Place, Glasgow G42 9UE and now at 3, Braefield Drive, Thornliebank, Glasgow, G46 7DL Mohamed Razaq residing at 3, Braefield Drive, Thornliebank, Glasgow, G46 7DL and Mohamed Ishfaq residing at 12 May Terrace, Glasgow G42 9XF ("the Landlords") per their Agent, Margaret Archer, 200 Sandy Road, Renfrew, PA4 0JX ("the Landlords' Agent")

Re: Property at 23 Ard Road, Renfrew, PA4 9DD ("the Property")

Committee Members

Karen Moore (Chairperson)

Mike Links (Surveyor Member)

Background

1. By application received on 5 February 2016, ("the Application"), the Tenant's Agent applied to the Private Rented Housing Panel for a determination that the Landlords had failed to comply with the duty imposed on them by Section 14 (1) (b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (a), 13 (1) (c), 13 (1) (d) and 13 (1) (f) of the Act.

2. A Notice of Referral, Inspection and Hearing, dated 2nd March 2016, was sent to the Landlords, the Tenant and both agents for the landlords and tenant, and in terms of Schedule 2, Paragraph 1 of the Act, an Inspection and Hearing were fixed for 13 April 2016 at 10.00 a.m. and 14.00 p.m., respectively.

3. Both the Tenant's Agent and the Landlords' Agent submitted written representations to the Committee stating, amongst other things, that the gas meter in the Property had been removed, the Tenant's Agent alleging removal by the Landlords and the Landlords' Agent alleging removal by the Tenant. The Committee, by Direction, requested that evidence be produced as to when and by whom the gas meter had been removed. In response to the Direction, the Tenant's Agent submitted email correspondence stating that the gas meter had been removed prior to the Tenant's entry date to the Property and intimated to the Committee that the Tenant had vacated the Property on 6 April 2016. The Committee gave consideration to the Tenant's vacating of the Property as a withdrawal of the Application and whether the Application should be determined or abandoned in terms of paragraph 7(3)(b) of Schedule 2 to the Act. It appeared to the Committee that the reason for the Tenant vacating the Property was the condition of the Property and, as the Committee formed the view that as the nature of the Tenant's complaint as outlined in the Application was serious, being described as having no gas supply, the Committee took the view that notwithstanding the fact that the Tenant had vacated the Property and the tenancy, there was sufficient concern that the matter complained of might not have been fully resolved to meet the Repairing Standard as required by the Act. Accordingly, the Committee continued with the proceedings in terms of paragraph 7(3)(b) of Schedule 2 to the Act .

The Inspection and Hearing.

4. Inspection took place on 13 April 2016 at 10.00 a.m. at the Property. The Landlords' Agent, Mrs Archer, was present.

5. The Committee inspected the Property and the items of which had been complained of specifically in the Application, namely:-

- a) The boiler in respect of the complaint of no heating and no hot water in the Property (photo 9);
- b) The gas meter;
- c) The broken kitchen window (photo 3);
- d) The broken light fittings (photos 4, 5, 6, 7 and 8) and
- e) No provision for detecting fires or carbon monoxide (photos 4, 5, 6, 7 and 8).

6. During the Inspection, the Committee were unable to test the installations and there was no power supply to the Property.

7. The Committee took digital photos of the Property which form the Schedule annexed and which photos are cross referenced at paragraph 5.

8. Following the Inspection, a Hearing was held at Wellington House, Wellington Street, Glasgow, G2 2XL at 2.00 p.m. Neither the Landlords nor the Landlords' Agent were present.

Summary of the Issues

9. The issues to be determined by the Committee are whether or not the Property meets the Repairing Standard in respect of Sections 13 (1) (a), 13 (1) (c), 13 (1) (d) and 13 (1) (f) of the Act at the date of the Inspection and Hearing. In particular, whether the Property was wind and watertight and in all other respects reasonably fit for human habitation, 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, any fixtures and fittings provided by the Landlord under the tenancy are in a reasonable state of repair and working order and the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Findings of Fact

10. One of the Landlords, Younis Mohammed (otherwise Mohammed Younis) residing sometime at 34 Carmichael Place, Glasgow G42 9UE and now at 3, Braefield Drive, Thornliebank, Glasgow, G46 7DL is the owner of the Property under title number REN113048. The Landlords were the landlords and the Tenant was the tenant of the Property in terms of a tenancy agreement between the parties dated June 2011.

11. The property is a ground floor flat, comprising two bedrooms, living room, kitchen and bathroom, in a block of four flats. The Property appears to be of [] construction

12. From the Inspection, the Committee found the following:-

(a) There is no heating or hot water in the Property as both gas and electricity supplies appear to have been disconnected;

(b) The boiler could not be tested as there is no energy supply in the Property;

(c) The gas meter has been removed from the Property;

(d) The light fittings in the property appeared to be newly fitted but could not be tested as there is no electricity supply in the Property;

(e) There are smoke detectors in the Property but it could not be ascertained if these are operable as there is no electricity supply in the Property;

(f) The kitchen window appears to be newly fitted and appears to be operable.

Decision of the Committee

13. The Committee's decision was based on the Application, the Inspection and the written representations.

14. In respect of Section 13 (1) (a) of the Act, the Committee found that at the date of the Hearing the Landlords have not failed to comply with the duty imposed by Section 14 (1) (b) of the Act as the Property is wind and watertight and in all other respects reasonably fit for human habitation.

15. In respect of Section 13 (1) (c) of the Act, the Committee found that at the date of the Hearing the Landlords have failed to comply with the duty imposed by Section 14 (1) (b) of the Act as 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.

16. In respect of Section 13 (1) (d) of the Act, the Committee found that at the date of the Hearing the Landlords have not failed to comply with the duty imposed by Section 14 (1) (b) of the Act as no detail of any complaint regarding fixtures and fittings provided by the Landlord under the tenancy was made by the Tenant and none was noted by the Committee at the Inspection.

17. In respect of Section 13 (1) (f) of the Act, the Committee found that at the date of the Hearing the Landlords have failed to comply with the duty imposed by Section 14 (1) (b) of the Act as there are no carbon monoxide or heat detectors in the Property and it cannot be ascertained if the smoke detectors are fully operable.

18. The decision is unanimous.

19. The Committee, having determined that the Landlords had failed to comply with the duties imposed by Section 14(1) (b) of the Act proceeded to make a Repairing Standard Enforcement Order as required by Section 24(2) of The Act.

Right of Appeal

20. 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.

21. 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 27 April 2016

27 April 2016

This is the schedule referred to in the foregoing decision

K Moore

Schedule of Photographs

23 Ard Road, Renfrew PA4 9DD

PRHP/RP/16/0042

13th April 2016



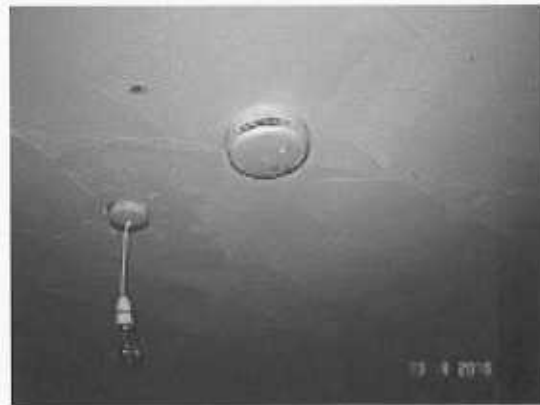
Front Elevation



Rear Elevation



Kitchen window



Smoke detector/light fitting



Smoke detector/light fitting



Smoke detector/light fitting



Light fitting



Light fitting



Central heating boiler



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Determination by Private Rented Housing Committee

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Re: Property at 23 Ard Road, Renfrew, PA4 9DD ("the Property") registered in the Land Register for Scotland under Title Number REN113048

Committee Members

Karen Moore (Chairperson)

Mike Links (Surveyor Member)

NOTICE TO THE LANDLORD

Younis Mohammed (otherwise Mohammed Younis) sometime at 34 Carmichael Place, Glasgow G42 9UE and now at 3, Braefield Drive, Thornliebank, Glasgow, G46 7DL Mohamed Razaq residing at 3, Braefield Drive, Thornliebank, Glasgow, G46 7DL and Mohmed Ishfaq residing at 12 May Terrace, Glasgow G42 9XF ("the Landlords") per their Agent, Margaret Archer, 200 Sandy Road, Renfrew, PA4 0JX ("the Landlords' Agent")

Whereas in terms of their decision dated 27 April 2016, 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 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 the Property has satisfactory provision for detecting fires and for 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 and that any damage caused by carrying out of the works in terms of the Order is made good.

The Landlords must on or before 31 May 2016:-

1. Carry out a certificated electrical condition check (EICR) on the entire electrical installation of the Property, by a suitably qualified and registered SELECT or NICEIC electrical contractor and carry out such repair or replacement works as recommended by that check to ensure that the boiler is operating to provide hot water and heating, the heat, smoke and carbon monoxide detectors are sufficient to comply with current regulations and are in proper working order and that any appliances provided by the Landlords are in proper working order and provide a certificate confirming these works have been carried out to the Committee.
2. Instruct a suitably qualified gas engineer to:-
 - i) carry out an inspection of the gas installations in the Property;
 - ii) install a gas meter and
 - iii) provide a gas safety certificate

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 27 April 2016 before this witness, Norman William Moore, solicitor, Cumbernauld.

W Moore



K Moore