



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Reference Number:- PRHP/RP/15/0161

Re: Property at 43A Lainshaw Street, Stewarton, KA3 5BY all as more particularly described in and registered in Land Certificate AYR37370 (hereinafter referred to as "the property").

The Parties:-

Miss Christie Griffin ("the Tenant")

Mr Ryan Molloy, 2f1, 22 East Preston Street, Edinburgh, EH8 9QB ("the Landlord")

NOTICE TO

Mr Ryan Molloy, 2f1, 22 East Preston Street, Edinburgh, EH8 9QB ("the Landlord")

Whereas in terms of their decision dated 11 September 2015, the Private Rented Housing Committee 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 the Landlord has failed to ensure that: the house is wind and watertight and in all other respects fit for human habitation and the structure and exterior of the house are in a reasonable state of repair and in proper working order.

The Private Rented Housing Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the house 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.



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

Reference Number: PRHP/RP/15/0161

Re: Property at 43A Lainshaw Street, Stewarton, KA3 5BY all as more particularly described in and registered in Land Certificate AYR37370 (hereinafter referred to as "the property").

The Parties:-

Miss Christie Griffin ("the Tenant")

Mr Ryan Molloy, 2f1, 22 East Preston Street, Edinburgh, EH8 9QB ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purpose of determining whether the Landlord has complied with the duty imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property concerned and, taking account of the evidence submitted on behalf of the Landlord and the application by Tenant, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

The Committee consisted of:-

Patricia Anne Pryce	-	Chairperson
Carol Jones	-	Surveyor Member
Helen Barclay	-	Housing Member

Background

1. By application comprising of all documents received on 29 May 2015, from the Tenant, the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14 (1) (b) of 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 the Tenant brought forward the following breaches:-

That there was a large gap around the window, between the window and the wall, which meant that it was not wind and watertight resulting in the bedroom being unusable.

That the gas safety check showed the condensate pipe runs outside but not into a drain or soak-away.

That the gas safety check showed equipotential bonding as unsatisfactory, no bracket or chain on the cooker, no FSDS on the cooker and no bonding at the meter.

That the cold tap in the bathroom did not work and that the electric shower was not working, and that neither of these had worked since the start of the tenancy.

That the roller doors in the back bedroom were dangerous due to a broken frame around the glass mirror.

That there was only one smoke alarm in the property which was situated close to the front door, which has had no battery since moving on.

The Tenant considers that the Landlord is in breach of his duties under the Housing (Scotland) Act 2006 in relation to the repairing standard and in particular the Landlord has failed to ensure:-

- (i) The house is wind and watertight and in all other respects reasonably fit for human habitation.
 - (ii) The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.
 - (iii) The installations in the house 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.
 - (iv) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
 - (v) Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
 - (vi) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or of suspected fire.
3. By Minute dated 23 July 2015 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. On 29 July 2015, the Private Rented Housing Committee (PRHC) wrote to the Landlord, to the Tenant and to the Landlord's letting agents and representatives, Infiniti Properties Management Limited, to advise that the Private Rented Housing Committee intended to inspect the property on 11 September 2015 at 11.30 am. The letter further confirmed that a Hearing had been arranged in relation to the application, which Hearing would be held in the Stewarton Area Centre, Avenue Street, Stewarton, KA3 5AP commencing at 12:30.

The Inspection

5. On 11 September 2015, the Committee attended at the property for the purposes of inspection of the property. The Tenant was not present at the inspection having vacated the property prior to the inspection. The Landlord did not attend the inspection, however, the Landlord's representative, Miss Angie Wylie of Infiniti Properties Management Limited, was present at the inspection and provided the Committee with access to the property.

At the inspection on 11 September 2015, the Committee noted the following points:-

- (a) The property comprises a former Local Authority three apartment flat situated on the ground floor of a block of 3 storey flats. This block was probably constructed in the 1960's and is located near the town centre of Stewarton which lies around 5 miles north of Kilmarnock in Ayrshire.
- (b) The accommodation comprises an entrance hallway, two bedrooms, a living room, a kitchen and a bathroom.

- (c) There was defective window in the front bedroom which had a defective seal from which there was a current of air flowing into the bedroom and through which the traffic outside could be heard clearly and there was a clear gap between the window and the beading above. There was also a crack in the plasterwork above the window on the right side. From the outside of the property, the window was clearly standing proud of the frame and there was a gap in the sealant.
- (d) The cold tap in the bathroom had been replaced and was now in working order.
- (e) The shower in the bathroom had been repaired and was in working order.
- (f) The roller doors of the mirrored wardrobes in the rear bedroom had been repaired and were in working order.
- (g) New smoke alarms had been installed with one located in the hallway and the other in the living room, both hardwired and interlinked.
- (h) A heat detection monitor had been installed in the kitchen along with a carbon monoxide detector and both of these devices had been hardwired and interlinked.
- (i) The gas boiler condensate drainage pipe exited the kitchen onto the rear wall of the building but did not run into a drain or a soak-away and was not fixed to the wall with the result that it hung loosely from the wall.

The surveyor member of the Committee took several photographs which form the Schedule which is attached to this decision.

The Hearing

6. The Tenant was not at the hearing as she was no longer party to proceedings having vacated the property prior to the inspection by the Committee. The Landlord did not attend the hearing but he was represented by Miss Angie Wylie of Infiniti Properties Management Ltd, the letting agents for the Landlord. Miss Wylie explained to the Committee that the Landlord was based in London and could not attend the hearing but that she would represent him at the hearing. Miss Wylie undertook to provide PRHP Administration with the up to date address for the Landlord after the hearing as she did not have those details in her possession at the hearing. The Committee took Miss Wylie through the details of the application.

Miss Wylie explained that she was employed as the General Manager for Infiniti Properties Management Ltd and had been employed by the company for nine years. It is her responsibility to oversee the maintenance of the properties for which the company acts as letting agents. She explained that her role was generally an office based role but that due to recent staff changes she had become more involved in the day to day issues and was not entirely happy about what she had discovered.

Miss Wylie explained that she did not normally inspect the properties herself as there is a team of property managers employed by the company who carry out three

monthly inspections on all of their properties. When asked, Miss Wylie could not confirm the dates of inspection for the property in respect of which this application arose. However, she advised that all properties would be inspected at the date of entry of any tenancy.

Miss Wylie explained that the former Tenant, Miss Griffin, had moved in to the property in December 2014. Miss Wylie further advised that Miss Griffin had liaised with a member of the Accounts Department of the company, rather than the Maintenance Department. Miss Wylie stated that it was unfortunate but that the personnel in the Accounts Department had not passed on Miss Griffin's complaints to the Maintenance Department with the result that none of the complaints or repairs had been resolved until very recently. Miss Wylie accepted that this was unfortunate and unacceptable but advised that, as a result of the events surrounding the present application, the procedures within the company had now been changed to ensure that there can be no reoccurrence of events of this nature. She advised that at the start of all tenancies now all tenants are provided with a letter which provides them with the names and contact details for the Maintenance Department in the company and advises them to raise any repairs issues directly with this department. Furthermore, Miss Wylie advised that a new phone system has been installed within the company so that all tenants can now choose which department they wish to be connected with. If there is no answer, an automatic voicemail is sent alerting all coordinators in the company of the need for a return call.

Miss Wylie advised that she did not know Miss Griffin's actual date of leaving the property but that she did not hand back the keys until 21 July 2015.

Miss Wylie produced to the Committee at the hearing an invoice from Cp Plumbing & Heating Scotland Ltd dated 9 September 2015 which advised of the taps in the bathroom having been replaced. Miss Wylie confirmed that this work had not been carried out until the week before the hearing as, firstly, as outlined above, the Maintenance Department had not been made aware of the former Tenant's complaints, and, secondly, the new Tenant who moved in to the property on 31 July 2015, had not provided access to the property due to his working hours and inability to make calls at his place of work. As a result, Miss Wylie advised that she provided the new Tenant with 24 hours' notice that she would be providing the plumber with access to the property to carry out the work as a matter of urgency.

Miss Wylie advised the Committee that the company now employs the services of an external company which carries out inventories of all their let properties at both the commencement and termination of tenancies.

In relation to the application, Miss Wylie fully accepted the details of this. Miss Wylie agreed that when the application was submitted the works required to be carried out and explained that, as at the date of the hearing, most of the work had now been carried out.

The Committee discussed the findings of the inspection with Miss Wylie. Miss Wylie had been of the opinion that the glazer had been asked to resolve all of the problems with the windows in the property but she accepted that the window in the front bedroom remained defective. She confirmed to the Committee that she would be advising both the Landlord and the glazer that she was of the opinion that a

completely new double glazing unit required to be installed to replace the presently defective window.

Miss Wylie also accepted that she was very surprised about the condition of the gas condensate pipe insofar as it was hanging completely loose from the rear wall of the building and that there was no drain or soak-away for the pipe to flow into. She advised the Committee that she would be reporting this to the Landlord immediately and the gas engineer with a view to having this rectified as soon as possible.

Miss Wylie advised the Committee that there were a number of issues which she had noted at the inspection which she intended raising with the Landlord including all of the issues mentioned on the gas safety certificate together with more decorative issues such as the carpets which were dirty.

Miss Wylie was remarkably honest and frank when giving her evidence to the Committee which proved helpful to the Committee.

Given all of the circumstances, the Committee is satisfied that the property is not wind and watertight and in all other respects reasonably fit for human habitation as a result of the defective window located in the front bedroom. The Committee is satisfied that the structure and exterior of the house are not in a reasonable state of repair and in proper working order given the lack of drain or soakaway for the gas condensate pipe and the lack of its affixation to the property.

Decision

7. The Committee accordingly determines that the Landlord has failed to comply 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.

8. The decision of the Committee was unanimous.

9. The Private Rented Housing Committee require the Landlord to carry out such works as are necessary to ensure that the property meets the Repairing Standard.

10. The Committee considered that it would be reasonable to allow a period of 28 days from the date of the RSEO to carry out these works.

Reasons for Decision

11. The Committee considers that the Landlord has had sufficient time to carry out the outstanding repairs.

The Committee considers that the Landlord has failed in his duty under Section 14(1)(b) of the Act and has not complied with the repairing standard in terms of Sections 13 (1) (a) and 13(1)(b) of that Act.

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

Patricia



P Pryce

Date 11 September 2015