



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

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/16/0032

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 ("the Act") by Trudy Louise Cross residing at Flat 2/1, 95 Curle Street, Glasgow, G14 0RR on behalf of herself and Ryan McGeady also residing at Flat 2/1, 95 Curle Street, Glasgow, G14 0RR ("the Tenants") against David Leslie Jackson and Marjorie Jean Holmes Anderson now McMenemy both residing at 12 Husrt Avenue, Harsham, West Sussex, RH12 2EL ("the Landlords") per their per their Agents, Edzell Property Management having a place of business at 1008 Pollokshaws Road, Glasgow, G41 2HG ("the Landlords' Agent")

Re: Property at Flat 2/1, 95 Curle Street, Glasgow, G14 0RR ("the Property")

registered in the Land Register for Scotland under Title Number GLA201384

Committee Members

Karen Moore (Chairperson)

Mike Links (Surveyor Member)

NOTICE TO THE LANDLORD

David Leslie Jackson and Marjorie Jean Holmes Anderson now McMenemy both residing at 12 Husrt Avenue, Harsham, West Sussex, RH12 2EL ("the Landlords") per their Agents, Edzell Property Management having a place of business at 1008 Pollokshaws Road, Glasgow, G41 2HG ("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 Landlords 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, the Private Rented Housing Committee now requires the Landlords 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:-

Instruct a suitably qualified gas engineer to carry out an inspection of the gas installations in the Property and carry out such repair or replacement works as recommended by that inspection to ensure that the boiler is operating to provide hot water and heating and

1. Provide a gas safety certificate to the Tenants and copy same to the Committee

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

Witness



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Re: Property at Flat 2/1, 95 Curle Street, Glasgow, G14 0RR ("the Property")

Committee Members

Karen Moore (Chairperson)

Mike Links (Surveyor Member)

Background

1. By application received on 15 January 2016 ("the Application"), Trudy Cross on behalf of the Tenants applied to the Private Rented Housing Panel for a determination that the Landlord had failed to comply with the duty imposed on them 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) (a) and 13 (1) (c) 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 11 January 2016 , a decision under Section 23 (1) of the Act to refer the Application to a Private Rented Housing Committee, and, in terms of Schedule 2, Paragraph 1 of the Act fixed an Inspection and Hearing for 13 April 2016 at 11.30 a.m. and 15.30 p.m. respectively.

The Inspection and Hearing.

3. Inspection took place on 13 April 2016 at 11.30 a.m. at the Property. Ms Cross was present. Mr Richard Taylor of the the Landlords' Agent was present.
4. The Committee inspected the Property and the items of which had been complained of specifically in the Application, namely:-
 - a) The water damage to and mould on the living room ceiling (photo 2) ;
 - b) Mould in the hall cupboard (photos 3 and 4)
 - c) Mould on the bedroom ceiling (photos 5 and 6)
 - d) Mould on the en suite ceiling (photo 7) ;
 - e) The boiler and hot water supply and
 - f) The electrical system complaint, being the light switch in the living room (photo 8).
5. During the Inspection, the Committee tested the hot water tap at the kitchen sink.
6. The Committee took digital photos of the Property which form the Schedule annexed and which photos are cross referenced at paragraph 4.
7. Following the Inspection, a Hearing was held at Wellington House, Wellington Street, Glasgow, G2 2XL at 3.15 p.m. Ms Cross was present. Mr Richard Taylor of the the Landlords' Agent was present.
8. With regard to the living room ceiling, the hall cupboard and the bedroom ceiling, both Ms Cross and Mr Taylor agreed that the water ingress arose from a leak in the flat above which has now been repaired. Ms Cross confirmed that these matters have been resolved to her satisfaction.
9. With regard to the electrical switch, Ms Cross confirmed that she accepted that the matter complained of was a potential fault caused by water ingress from the flat above

and that she had had no shocks from the switch and so was satisfied that the switch was in good working order.

10. With regard to the mould on the en suite ceiling, Ms Cross, having explained to the Committee that the Tenants did not use the en suite, accepted that the mould was condensation markings and that there was no current dampness.

11. With regard to the boiler and hot water supply, Ms Cross explained to the Committee that the hot water temperature was intermittent and, at best, lukewarm.

12. Mr Taylor assured the Committee that any remaining complaints would be attended to on behalf of the Landlords.

13. Summary of the Issues

14. 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) and 13 (1) (c) 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 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.

Findings of Fact

15. The Landlords are the owners of the Property under title number GLA201384. They are the landlords and the Tenants are the tenants of the Property in terms of a tenancy agreement between the parties dated 26 June 2015.

16. The Property is a modern flat comprising two bedrooms, one with en suite, open plan kitchen/living area and bathroom. The Property is situated on the second floor of a five storey block, constructed circa 2008.

17. From the Inspection and Hearing, the Committee found the following:-

- (a) There is no dampness or water ingress in the Property;
- (b) There are condensation mould markings which are likely to have been caused by inadequate ventilation on the en suite ceiling but no dampness and
- (c) The hot water system in the Property is not functioning properly as it runs at a cool temperature.

Decision of the Committee

18. The Committee's decision was based on the Application, the Inspection, the written representations, and the statements made to the Committee at the Hearing.
19. 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 was not wind and watertight and in all other respects reasonably fit for human habitation.
20. 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.
21. The decision is unanimous.
22. 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

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.
24. 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

Flat 2/1, 95 Curle Street, Glasgow G14 0PR

PRHP/RP/16/0032 13th April 2016



Front Elevation



Living Room Ceiling



Cupboard



Meter reading on ceiling



Meter reading



Meter reading



Meter reading – showr rm



Living Room –light switch