



REPAIRING STANDARD ENFORCEMENT ORDER
Ordered by the Private Rented Housing Committee

RE: Property at 22 Beech Avenue, Paisley, PA2 6XN registered in the name of the Landlord on 14 April 2004 in the Land Register under Title Number REN44888 (“the House”)

In connection with

Property at 22 Beech Avenue, Paisley, PA2 6XN (“the House”)

Stacey Currie, residing at the House (“the Tenant”)

Marina MacLeod, 18 Ben Nevis Road, Paisley, PA2 7LA (“the Landlord”)

PRHP REFERENCE PRHP/RP/15/0094

NOTICE TO

Marina McAskill MacLeod, the Landlord

WHEREAS in terms of their decision dated 15 October 2015 the Committee determined that the Landlord has failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord has failed to ensure that the House meets the repairing standard in that:

“(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire”

The Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the House 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 Committee requires the Landlord:

1. To comply with Scottish Government Statutory Guidance on the provision of smoke alarms as set out at www.prhpscotland.gov.uk and in particular to carry out the following:

- (i) install a mains operated smoke alarm within the living room of the House
- (ii) install a mains operated heat detector within the kitchen of the House, and
- (iii) Ensure that the smoke detectors in the hallway and living room and the heat detector in the kitchen are interlinked as described in the said guidance.

The Committee order that the works specified in this Order must be carried out and completed within two calendar months from the date of service of this Notice and for written proof of having done so to be supplied to the Private Rented Housing Panel.

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 the decision.

Where such an appeal is made, the effect of the decision and 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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

IN WITNESS WHEREOF these presents typewritten on this and the preceding page are signed by Maurice O'Carroll, Chairperson of the Private Rented Housing Committee at Glasgow on the sixteenth day of October, Two Thousand and Fifteen in the presence of the undernoted witness:

Chairperson 
M O'CARROLL

Witness: E RICHARDS

Name in full: E LENA RICHARDS

Occupation: COURT CLERK

Witness Address: ^{1st} EUROPA BUILDING 450 ARGYLE STREET GLASGOW



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**

In connection with

Property at 22 Beech Avenue, Paisley, PA2 6XN (“the House”)

Stacey Currie, residing at the House (“the Tenant”)

Marina MacLeod, 18 Ben Nevis Road, Paisley, PA2 7LA (“the Landlord”)

PRHP REFERENCE PRHP/RP/15/0094

DECISION

The Committee having made such enquiries as are fit for the purposes 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 House, and having taken account of the evidence led at the hearing and of the written documentation attached to the application and submitted by the parties, has made the following decision:

It has determined that the Landlord has failed to comply with the duty imposed by section 14(1)(b) of the Act.

The decision was unanimous.

Background

By application dated 25 February 2015 (the “Application”) the Tenant applied to the Private Rented Housing Panel (“PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlords had failed to comply with the duty to ensure that the House meets the repairing standard and in

particular that the Landlords had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

*“(c) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and water heating are in a reasonable state of repair and in proper working order...and
(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.”*

The Tenant complained that the central heating system did not work and that there was no provision for the detection of smoke or fire.

By letter dated 8 April 2015, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

By email dated 20 April 2015, the Tenant confirmed that the central heating system in the house had been fixed. However, the satisfactory provision for detecting fires or for giving warning of fires or suspected fire was not confirmed. Accordingly, the President issued a Minute of Continuation dated 20 August 2015 indicating that the Application would continue to be considered. This was intimated to the parties on 27 August 2015.

The Committee comprised the following members:

Maurice O'Carroll, Chairperson
Mary Lyden, Housing Member
George Campbell, Surveyor Member

The Committee inspected the House at 10.00am on 14 October 2015. Both the Tenant and the Landlord were present at the inspection.

In light of what is stated below, it was unnecessary to hold a separate hearing in relation to the Application.

Summary of the Issues

The issue to be determined is whether (a) the House meets the repairing standard as laid down in section 13(1)(c) and (f) of the Act and therefore (b) whether the Landlord has complied with the duty imposed by section 14 (1)(b).

Findings in Fact

The Committee made the following findings in fact:

The Landlord and the Tenant entered into a Tenancy agreement in respect of the House on 5 February 2012. The tenancy was stated to be a short assured tenancy

of six months duration but has rolled over each six months since 6 August 2012 by operation of tacit relocation.

The Landlord was recorded on the Lease as being CFI Limited. No issue has been taken regarding the difference in designation between the landlord as stated in the Tenancy Agreement and the designation of the registered owner.

The registered owner of the House is Marina McAskill MacLeod as designated above under Title Number REN44888, having taken entry on 5 March 2004.

The Tenant took possession of the House from 6 February 2012 and has remained in occupation since that time.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defects in the house which are now the subject of the Application by letter dated 25 February 2015.

The inspection on 14 October 2015 revealed:

The property is a ground floor cottage flat within a four in a block dwelling house with main door entry. It has a central hallway with three bedrooms and bathroom off, a living room to the right of the end of the hallway and kitchen to the left with utility space to the left of it.

Both the Tenant and the Landlord were present at the time of the inspection. The House was warm and the Tenant confirmed that the central heating and radiators were in full working order. A new boiler had been installed in the utility space off the kitchen on 15 March 2015.

There was an old battery operated smoke alarm in the hallway. On the same date as the boiler was fitted, the House had been fitted with a mains operated smoke alarm in the hallway. The Committee confirmed that it was operational during the inspection.

There was no smoke alarm in the living room or anywhere else in the House apart from the hallway. There was no heat detector in the kitchen. There was an unfixed battery operated carbon monoxide detector in the kitchen which was supplied on the same day that the new boiler was fitted.

Reasons for the Decision

The Committee was satisfied that the central heating system was in full working order as confirmed by the Tenant in her email of 20 April 2015 and again during the inspection. Accordingly, this part of the Application was treated as having been withdrawn. The sole issue remaining was therefore in respect of fire detection.

In terms of the revised Scottish Government Domestic Technical Handbook, the following is required within all rented properties:

- (i) a functioning smoke alarm in any room which is frequently used by the occupants for general daytime living purposes, such as living rooms,
- (ii) a functioning smoke alarm in every circulation space, such as hallways,
- (iii) a heat alarm in every kitchen, and
- (iv) all alarms should be interlinked.

Requirements (i), (iii) and (iv) were not complied with in respect of the House. The Landlord indicated that she was unaware of those requirements and had taken no steps to comply with them.

Decision

Accordingly, the Committee, considering the terms of section 13(3) of the Act, was able to determine that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act in relation to fire detection.

It was unnecessary to hold a separate formal hearing in order to determine the sole remaining issue within the Application.

The Committee therefore determined to make a Repairing Standard Enforcement Order in terms of section 24(2) of the Act.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

M O'CARROLL

Maurice O'Carroll
Chairperson

Date: 15 October 2015