



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

prhp Ref: PRHP/RP/16/0286

Re: Property at 8/1 Great King Street, Edinburgh EH3 6QL ("the Property")

The Parties:-

MR NOEL LAWLOR and MRS CAROLYNE LAWLOR, 8/1 Great King Street, Edinburgh EH3 6QL ("the Tenants")

MR ERH-CHUIN LIM, c/o D J Alexander, 52-54 Dundas Street, Edinburgh EH3 6QZ ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence provided by both the Landlord and the Tenants at the hearing, determined that the Landlord had not failed to comply with the duty imposed by Section 14(1)(b) of the Act.

Background

1. By application dated 1 April 2016 the Tenants applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenants stated that the Tenants considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) 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.
 - (b) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.

In particular, the Tenants indicated that the fire was not safe to use following two inspections by different contractors and that there was no carbon monoxide detector in the property.

3. By letter dated 28 September 2016 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Committee Members were Graham Harding (Chairperson) and David Lawrie (Surveyor Member).
5. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenants.
6. Following service of the Notice of Referral the Tenants (by email dated 26 October 2016), advised the Committee that they wished to withdraw their application as the Landlord was making efforts to solve the problems in the property. In view of the Tenants withdrawing the application, the Committee took the view that as the application related to the safety of the gas fire within the property, it was in the public interest to continue with the application by Minute of Continuation dated 31 October 2016.
7. The Private Rented Housing Committee attended at the Property on 1 November 2016. They were shown round the property by the Tenant, Mr David Lawlor. The property is a flatted dwellinghouse within a stone built terrace. Neither the Landlord nor the Landlord's representatives attended at the inspection. The Committee inspected the alleged defects and found as follows:-
 - (a) The Landlord had obtained a Gas Safety Certificate showing that the gas installations within the property were safe.
 - (b) At the time of issuing the Gas Safety Certificate, the gas fire was not working properly.
 - (c) The Tenants confirmed that the gas fire had been repaired and was now operating properly.
 - (d) The Committee noted that there was a carbon monoxide detector located within the living room.
 - (e) The Committee noted that there was a single smoke detector in one part of the hall area. There was no heat detector in the kitchen and no smoke detector in the living room.
8. Neither the Tenants nor the Landlord attended the Hearing on 1 November 2016. The Committee determined the application in their absence.

Summary of the Issues

9. The issues to be determined are:-
- (a) Whether 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.
 - (b) Any fixtures, fittings and appliances provided by the Landlord under the Tenancy are in a reasonable state of repair and in proper working order.
 - (c) In particular, the issue to be determined was whether or not the fire in the living room was safe to use and whether there was a carbon monoxide detector in the property.

Findings of Fact

10. The Committee determined that:-
- (a) 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. The gas fire was working properly and that the Landlord had provided a Gas Safety Certificate confirming that the gas installations were safe to use.
 - (b) Any fixtures, fittings and appliances provided by the Landlord under the Tenancy are in a reasonable state of repair and in proper working order. That gas fire was operating correctly and that there was a carbon monoxide detector in the living room.

Reasons for the Decision

11. Given that the Landlord had obtained a satisfactory Gas Safety Certificate; that the Tenants were satisfied that the gas fire was operating properly; and that the Landlord had supplied a carbon monoxide detector, the Committee were satisfied that the property met the Repairing Standard in respect of the application.

Decision

12. The Committee accordingly determined that the Landlord had complied with the duties imposed by Section 14(1)(b) of the Act.

The decision of the Committee was unanimous.

13. Whilst the Committee were unable to make an Order with respect to the smoke alarm and heat detector as these had not been notified to the Landlords, they would recommend that a hard wired interlinked smoke alarm system and heat sensors should be installed to comply with the Regulations.

Right of Appeal

- 14. **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

- 15. 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.

G Harding

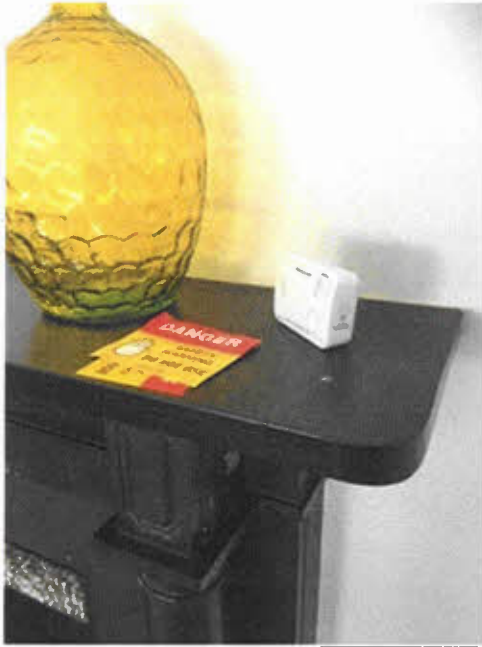
Signed

Chairperson

Date 17/11/16

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8/1 GREAT KING STREET EDINBURGH

PHOTOGRAPHIC SCHEDULE



Carbon monoxide detector



Living room ceiling - no smoke detector



Kitchen ceiling - no smoke detector

**DAVID LAWRIE
SURVEYOR COMMITTEE MEMBER
3 NOVEMBER 2016**