



Determination by Private Rented Housing Committee

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 25(1) of the Housing (Scotland) Act 2006

Case Reference Number: PRHP/RP/15/0254

Re:- Property at Flat O/1, 323 Archerhill Road, Glasgow, G13, 4PL ("the property")

Land Register title number : GLA187461

The Parties:-

Miss Melissa Duncan, residing at Flat O/1, 323 Archerhill Road, Glasgow, G13, 4PL (**"the tenant"**)

And

Mr Safdar Ali, at Flat 3/1, 40 Coburg Street, Glasgow, G5 9JF (**"the landlord"**)

The Committee comprised:-

Mr James Bauld	- Chairperson
Mr Mike Links	- Surveyor Member

Background:-

1. On 11th December 2015 the Committee issued a Determination which decided that the landlord had failed to comply with the duties imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the 2006 Act"). On the same date the Committee issued a Repairing Standard Enforcement Order ("RSEO") in respect of the property.
2. The RSEO required the landlord to undertake certain works by 31st January 2016. The works required in terms of the RSEO were as follows:-
 - To produce to a Gas Safety Certificate under and in terms of the Gas Safety (Installation and Use) Regulations 1998 confirming that the property meets the requirements of those regulations.

- To instruct an appropriately qualified contractor to carry out a standard Electrical Installation Condition Report on the property and to carry out any works which are shown to be necessary in terms of said report to bring the electrical installations and wiring throughout the property into a proper state of repair and to proper working order.
 - to instruct an appropriately qualified specialist to carry out an inspection of the timber throughout the property, to report on the extent of rot and timber decay and woodworm infestation throughout the property and, in particular, in the floor boards to the property and to carry out any works which are shown to be necessary in terms of said report to bring the timber in the property into a proper state of repair and to ensure rot, decay and woodworm are eradicated within the timbers.
 - To replace the thermostatic radiator valves in all radiators throughout the property and to ensure that the thermostatic radiator valves are in a reasonable state of repair and in proper working order.
 - To fill and repair the settlement cracks throughout the property and to redecorate thereafter.
 - To replace the sealant around the bath to ensure that the area is watertight.
 - To remove the carpets from the hall and front bedroom of the property and to replace with appropriate flooring which is not damp.
 - To refit and replace if necessary the doors to the kitchen and bathroom of the property to ensure that they close fully and properly.
3. On 15th February 2016, the surveyor member of the Committee re-attended at the property to carry out a re-inspection. A report of this re-inspection was prepared and was circulated to the parties. In terms of that report, the surveyor noted that no material works had been carried out in respect of the works required by the RSEO. A single decayed section of flooring in the kitchen had been made safe by the insertion of a temporary piece of wood. The landlord who was present during the re-inspection alleged that the repairs had not been undertaken because the tenant had refused to allow access. The tenant who was also present denied those allegations. Her comments are reflected in the re-inspection report. The report concluded that all items of work required within the RSEO remained outstanding.
4. The re-inspection report was sent to both parties. The tenant confirmed to the panel offices on 21st March 2016 that she remained as a tenant notwithstanding the service by the landlord of relevant notices to quit. The landlord's response to the re-inspection report was received in the offices of the PRHP on 28th April. It had apparently been posted on 30th March. The envelope indicated that the postage had been underpaid. The landlord had sent various documents including a Gas Safety Check carried out on 20th October 2015 and a copy of an Electrical Installation Condition Report undertaken on 18th February 2016. The landlord also enclosed a copy of a letter he had sent to the tenant dated 14th September 2015 indicating that once the flat was empty he would make sure all works and checks were done. It is clear from the re-inspection that the landlord has carried out none of the works required in the RSEO. His position that these works can only be done if the tenant is removed from the property is not accepted by the Committee. The Committee also note that the Electrical Installation Condition Report provided by the landlord bears to show that the purpose of the report was "change of tenancy". The Committee are concerned that the electrical engineer instructed to carry out this report has been given incorrect information by the landlord. The Electrical Installation Condition Report also indicates there are a number of items which have been inspected which are marked as "C1" and "C2". The report indicates that the code "C1" means "Danger present. Risk of injury. Immediate remedial action required". The report indicates that the code "C2" means "Potentially dangerous. Urgent remedial action

required." This report was prepared on 18th February 2016 and despite having indicated to the landlord that there were a number of matters which required immediate remedial action no works have been undertaken by the landlord at all. The Committee note with concern that the landlord continues to ignore the RSEO and his failure to carry out works which have been indicated as immediately required by an electrical engineer. The Committee also note with concern that the engineer who prepared the Electrical Installation Condition Report indicated that in general terms the installations within the house were "satisfactory" but then indicated that they were only in that condition "if work is carried out as listed".

5. Prior to the re-inspection the tenant had responded to the panel offices indicating that in her view the works in the RSEO had not been completed and indicating that the only contact she had had from the landlord since the granting of the RSEO was when rent was due and that she had been served with a notice to quit and a Section 33 notice on 24th December 2015.

Decision

6. The Committee reviewed the matters and in particular the re-inspection report provided by the surveyor member. The Committee noted the responses received from the parties and in particular from the landlord..
7. The Committee took the view that the landlords had failed to carry out the vast majority of the works required in respect of the RSEO. The Committee took the view that the landlord had sufficient time to carry out the works and did not accept his view that he had been prevented from gaining access by the tenant. The Committee took the view that the landlord was simply deliberately ignoring the RSEO and that he had no intention of carrying out the relevant works. The Committee also took the view that the landlord was not only ignoring the RSEO but he was ignoring the terms of the Electrical Installation Condition Report which he had also obtained and which indicated that immediate and urgent works were required in respect of certain matters relating to the electrical installations within the property.
8. Accordingly the Committee took the view that the landlord's failure to implement the works in the RSEO was a breach of the RSEO. In accordance with the relevant provisions of Section 25 of the 2006 Act the Committee required to determine whether a Rent Relief Order should be made.
9. The Committee took the view that the works required in this RSEO had been outstanding for a period of months. The Committee also took the view that these works could easily have been carried out during the period of time allowed in the RSEO and at the very least significant progress could have been made towards the completion of the works. The Committee took the view that the failure to carry out the works was having a significant impact on the tenant's ability to fully enjoy the property. The Committee took the view that the landlord's failure to implement the RSEO was significant and deliberate and in all the circumstances the Committee determined that a Rent Relief Order should be made. The Committee' view was also strengthened by the landlord's failure to implement the works required in terms of the Electrical Installation Condition Report.
10. The Committee carefully considered the level at which a Rent Relief Order should be made. The Committee took the view that the appropriate portion of rent which should be subject to the Rent Relief Order was 60% of the ongoing monthly rent and accordingly the Committee determined to make a Rent Relief Order in those terms.
11. The decision of the Committee was unanimous.

Rights of Appeal

12. A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.
13. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP of the Committee which made the decision.

Effects of Section 63

14. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.
15. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

J. BAULD

Signed

Date

13 May 2016

James Bauld, Chairperson

N. CALDWELL

Signature of Witness

Date

13 May 2016

Name: NICOLA CALDWELL

Address: 7 West George Street, Glasgow, G2 1BA

Designation: COURT ADMINISTRATOR



Rent Relief Order

Ordered by the Private Rented Housing Committee

Re:- Property at Flat O/1, 323 Archerhill Road, Glasgow, G13, 4PL ("the property")

Case Reference Number: PRHP/RP/15/0254

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The Parties:-

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And

Mr Safdar Ali, at Flat 3/1, 40 Coburg Street, Glasgow, G5 9JF ("**the landlord**")

NOTICE TO SAFDAR ALI, Flat 3/1, 40 Coburg Street, Glasgow, G5 9JF

In terms of their decision dated 13 May 2016, the Private Rented Housing Committee ("the Committee") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the house made by the Committee.

The Committee determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 60% of the monthly rent (being £276.00 per calendar month of the current monthly rent of £460) which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under Section 64 of the said Act.

A landlord or a 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.

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. Where the appeal is abandoned or finally determined by confirming the decision, the Rent Relief Order will take effect 28 days after the date on which the appeal is abandoned or the decision is confirmed.

J. BAULD

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James Bauld, Chairperson
Private Rented Housing Committee

Date 13 May 2016

N. CALDWELL

Signature of Witness

Date 13 May 2016

Name: NICOLA CALDWELL

Address: 7 West George Street, Glasgow, G2 1BA

Designation: COURT ADMINISTRATOR