



Determination by Private Rented Housing Committee

**Statement of decision of the Private Rented Housing Committee under Section 26 (1)
of the Housing (Scotland) Act 2006**

Reference Number: PRHP/RP/16/0048

Re: Property at 23 Ard Road, Renfrew, PA4 9DD, all as more particularly described in and registered in Land Certificate REN113048 (hereinafter referred to as “the property”).

The Parties:-

Miss Julie Anne Lannigan (“the former Tenant”)

Mr Younis Mohammed, 34 Carmichael Place Glasgow G42 9UE (“the Landlord”)

The Committee comprised:-

Patricia Anne Pryce	-	Chairperson
Mike Links	-	Surveyor Member

Background

- 1. On 27 April 2016, the Private Rented Housing Committee (“the Committee”) issued a determination which stated that the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”). On the same date, the Committee issued a Repairing Standard Enforcement Order (“RSEO”) in respect of the property.**
- 2. The RSEO made by the Committee required the Landlord to:-**
 - “1. Carry out a certificated electrical condition check (EICR) on the entire electrical installation of the property, by a suitably qualified and registered SELECT or NICEIC electrical contractor and carry out such repair or replacement works as recommended by that check to ensure that the boiler is operating to provide hot water and heating, the heat, smoke and carbon monoxide detectors are sufficient to comply with current regulations and are in proper working order and that any appliances provided by the Landlord are**

in proper working order and provide a certificate confirming these works have been carried out to the Committee.

2. Instruct a suitably qualified gas engineer to:-
 - i) carry out an inspection of the gas installations in the property;
 - ii) install a gas meter and
 - iii) provide a gas safety certificate.”
3. The Committee ordered that the works specified in the RSEO were to be carried out and completed on or before 31 May 2016.
4. On 2 June 2016, the surveyor member of the Committee which issued the RSEO attended at the property for the purpose of ascertaining whether the said repairs required by the RSEO had been completed. He found that not all of the works specified in the RSEO had been carried out and that the said specified works had not been completed in that: the boiler remains as seen at the original inspection, it was not clear from the Electric Certificate whether any electric tests have been undertaken on the boiler, no carbon monoxide detector was installed and no gas meter had been installed.
5. A copy of the re-inspection report of the surveyor member was sent to the Landlord. No response was received from the Landlord in relation to this. PRHP Administration, at the request of the Committee, arranged a further hearing for 19 September 2016 at 11.30 am within Wellington House Room 1, 134-136 Wellington Street, Glasgow. Neither the Landlord nor his agents attended this hearing. However, PRHP Administration received notification that one of the Landlord’ agents, Margaret Archer, was at the property to allow access to the Committee for an inspection. She was advised that no further inspection had been arranged. Mrs. Archer advised that she could not attend the hearing that day.
6. As a result of the confusion, the Committee decided to arrange a further inspection and hearing to take place on 17 October 2016, with the inspection at 10 am and the hearing at 11.30 am at Wellington House.
7. The Committee attended at the property for inspection. Both Margaret Archer and Mr. Tahir Bashir, another agent for the Landlord, attended at the property. The Landlord did not attend. The Committee noted that a new boiler had been installed and that it was allowing the production of both heating and hot water within the property. The boiler is located in the kitchen. The Committee noted that there was now a carbon monoxide detector installed in the kitchen but that the site of installation did not comply with current regulations. The Committee noted that there was a heat detector in the kitchen along with two smoke detection devices located in the hallway and the living room of the property. These appeared to be hard wired. However, when tested by the Committee, these devices were not interlinked and therefore did not comply with current regulations.

A schedule of photographs taken by the Surveyor Member of the Committee is attached to this decision.

Hearing

8. The Committee then attended the hearing. Mr. Bashir attended on behalf of the Landlord. He confirmed that he was the agent for the Landlord and had been a property manager for around 15 years. The Landlord did not attend. Mr. Bashir handed to the Committee a Gas Safety Certificate dated 2 September 2016. While this Certificate confirmed the proper working order of the boiler, it also stated that the carbon monoxide detector was installed and functioning. The Committee advised Mr. Bashir that this detector as presently installed did not meet current regulations. Mr. Bashir confirmed that he would go back and check this and get it changed but that he relied on the contractor who installed it, who was also the contractor who signed the Certificate, to ensure that it complied with current regulations.

The Committee raised with Mr. Bashir the issue of whether or not the electrician who had produced and signed the EICR was duly registered. Mr. Bashir could not confirm the registration of the electrician. The Committee advised that it had tried on several occasions to obtain confirmation from the Landlord's agents that the contractor was duly registered but that the information about the registration or otherwise of this electrician was not forthcoming from either the Landlord or his agents. Mr. Bashir advised that he would obtain this information and forward it to the Committee as soon as possible.

Mr. Bashir accepted that the heat and smoke detection devices were not interlinked as they should be. He advised that he relied on his contractors to know what they were doing. He advised that he would go back to his contractors and get this resolved.

Mr. Bashir confirmed that the property was not being let at the moment.

Mr. Bashir also confirmed that he did not have a Portable Appliance Test Certificate in respect of the appliances in the property but that he would obtain this and forward it to the Committee as soon as possible.

Mr. Bashir could offer no clear explanation as to why almost six months after the RSEO had been issued, a number of the works remained outstanding.

Decision

9. The Committee notes that some of the works have been carried out in terms of the RSEO. However, the Committee notes that, despite various requests by the Committee, the Landlord has not provided confirmation that the EICR was produced by a duly registered contractor. Furthermore, the Committee notes that the heat, smoke and carbon monoxide detectors do not comply with current regulations. The Committee notes that no PAT Certificate was

produced in respect of the appliances provided by the Landlord within the property. These issues remain outstanding in terms of the RSEO.

10. The Committee takes the view that the Landlord has had ample time to carry out the remaining works and that the Landlord is simply ignoring these parts of the RSEO which remain unsatisfied.
11. Accordingly, the Committee takes the view that the Landlord's failure to implement all of the works amounted to a breach of the RSEO. In accordance with the relevant provisions of Section 26 of the 2006 Act, the Committee required to determine whether an RRO should be made. As the original tenancy had come to an end, the Committee could not make an RRO.
12. The Committee took the view that the works required by the RSEO had been outstanding for well over five months. The Committee took the view that these works could have easily been completed in that period of time.
13. The Committee, having made such enquiries as is fit for the purposes of determining whether the Landlords have complied with the Repairing Standard Enforcement Order in relation to the property, determined that the Landlords have failed to comply with the RSEO in terms of Section 26(1) of the Housing (Scotland) Act 2006 and that a notice of the failure be served on the Local Authority in which the property is situated.
14. The decision of the Committee is unanimous.

Rights of Appeal

15. 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.
16. 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

17. 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.

18. 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.

Signed

Patricia Anne Pryce, Chairperson

> Date 17th October 2016

PHOTOGRAPH SCHEDULE

23 Ard Road, Renfrew PA4 9DD

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17th October 2016



Ground Floor Flat—Front elevation



Gas central heating boiler in Kitchen



Carbon monoxide alarm in Kitchen



Gas meter in external cupboard.