



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: prhp/rp/16/0173

Re: Property at 16 Bathgate Road, Blackburn, West Lothian EH47 7LW ("the Property/ the house")

Land Certificate Number: WLN5363

The Parties:-

Miss Noreen Keenan, 16 Bathgate Road, Blackburn, West Lothian EH47 7LW ("the Tenant")

Braidwood Motor Company Limited, incorporated under the Companies Acts (Company No. 235866) and having its registered office at 16 Drumshoreland Road, Pumpherston, West Lothian EH53 0LN ("the Landlord")

NOTICE TO BRAIDWOOD MOTOR COMPANY LIMITED ("the Landlord")

Whereas in terms of their decision dated 2015, the Private Rented Housing 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:-

- (a) the Property is wind and water tight and in all other respects fit for human habitation,
- (b) the structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,
- (c) 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,
- (d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order,
- (e) any furnishings provided by the landlord under the tenancy are capable of being used for the purpose for which they are designed,
- (f) the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, and
- (g) the Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

the Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned 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 Private Rented Housing Committee requires the Landlord to:-

Instruct an RICS registered building surveyor to carry out a survey and report on the condition of the subfloor of the property with particular reference to the water ingress at the kitchen area. The report should also examine the condition and operation of the soil, waste and rainwater pipework at that area and any relationship to the water ingress. Carry out and complete any and all repairs to the property identified and recommended by the said report.

On completion of these works make good or replace the kitchen chipboard flooring, skirting etc. and supply and fit vinyl floor covering

Engage a suitably qualified and Gas Safe registered heating engineer to carry out an inspection and report on the gas fired heating and hot water supply installation including boiler, all radiators, valves, programmers, thermostats and shower valves. Follow the recommendations of that report to ensure that the entire system is safe and in proper working order. Provide a valid CP12 Gas Safety Certificate.

Engage a suitably qualified and registered SELECT or NICEIC electrical contractor to carry out a certificated electrical condition check (EICR) on the entire electrical installation of the property. The inspection and report should include the connections to the gas fired central heating boiler. Follow the recommendations of that report to ensure that all wiring, equipment, appliances and light fittings are safe and in proper working order.

Repair or replace the door to main bedroom including all frames, facing and ironmongery.

Provide and install smoke detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5389 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under Section 2 - Fire, sub- section 2.11
Communication

Form brick/concrete seating at the drain rodding point in the side driveway and provide a suitable cast iron removable cover.

Carry out all making good and decoration associated with the completion of the foregoing works.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 6 weeks from the date of service of this Notice.

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, 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 typewritten on this and the preceding page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade, on 6 September 2016, before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

V. CLARK

witness

G. CLARK

— chairman



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

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Re: Property at 16 Bathgate Road, Blackburn, West Lothian EH47 7LW ("the Property/the house")

The Parties:-

Miss Noreen Keenan, 16 Bathgate Road, Blackburn, West Lothian EH47 7LW ("the Tenant")

Braidwood Motor Company Limited, incorporated under the Companies Acts (Company No. 235866) and having its registered office at 16 Drumshoreland Road, Pumpherston, West Lothian EH53 0LN ("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 led by both the Landlord and the Tenant at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application received on 28 April 2016 the Tenant 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 Tenant stated that the Tenant 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 house is wind and water tight and in all other respects reasonably fit for human habitation,
 - (b) 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,
 - (c) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order and
 - (d) the house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire.
3. By letter dated 26 July 2016 the Private Rented Housing Panel intimated a decision by the President to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.

4. 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 Tenant.
5. Following service of the Notice of Referral the Tenant (by letter dated 14 August 2016), made written representations to the Committee. The Landlord (by letter dated 8 August 2016), made written representations to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 6 September 2016. The Tenant was present during the inspection. The Landlord was neither present nor represented during the inspection.
7. A file of photographs, taken at the inspection, is attached to and forms part of this Statement of Decision.
8. The Committee comprised George Clark (chairman) and Andrew Taylor (surveyor member).
9. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Blackburn Community Centre, Ash Grove, Bathgate EH47 7LJ and heard from the Tenant, who was accompanied by her support worker, Hazel Martin, of Places for People. The Landlord was neither present nor represented at the hearing.
10. The Tenant, in her application and her further written submissions date 14 August 2016, submitted as follows:- the kitchen floor was sinking, Floor coverings had been uplifted but not replaced. Pipes were sticking up out of the floor and walls. Drainage covers were broken, so drains became blocked, There had been ants in the kitchen due to exposed foundations. The heating and shower were not connected properly to the boiler. The kitchen sink was blocked. On one occasion, she had become locked in the bathroom as she could not unlock the door. The Fire Service had had to break the door panel to free her.
11. The Landlord, in its written submissions dated 8 August 2016, submitted as follows:- the Landlord was aware that certain works required to be carried out to the Property, as they had been pointed out when other work was being done, but on every occasion the workmen turned up at an agreed date and time, the Tenant refused them entry or refused to answer the door. After this had happened on several occasions, the tradesmen had refused to return as it was costing them time and money. While work was being carried out, the Tenant had deliberately sabotaged new pipework under the kitchen floor. As for the drainage issue, an engineer had attended the Property on many occasions and had assured the landlord that it was the fault of the Tenant due to the materials being put through the system. If the landlord's tradesmen were given access, the work mentioned would be put right.
12. At the hearing, the Tenant told the Committee that there had been vinyl flooring on the kitchen floor until about two years ago. Water was lying on top of it and there was also a gap between the floor and the base of the external wall in that area. The landlord's tradesmen had lifted the vinyl and had made a hole in the floor, which had never been repaired. The electrical system kept tripping at the consumer unit and bulbs kept falling out of the light fittings. Only one light was now working in the kitchen. She had asked the landlord to send an electrician but he had not done so. The central heating thermostat in the hall has been working when the Tenant moved in and the shower had also been working at that time. The thermostat had stopped working over a year ago. Tradesmen had been in from time to time and had got it working, but then it would go again. In 2015, the Tenant had found herself locked in the bathroom and unable to get out. Her dog was outside the door and she had the cooker on, so she had to call the Fire Service. They had been unable to pull the door open either, so had taken out one of the door panels. At the time, they had also pointed out that there were no smoke detectors in the Property and no carbon monoxide detector and had given her a battery-operated smoke detector as a temporary measure. When it was raining, dirty water backfilled into the kitchen sink and

the toilet. The Tenant confirmed that ants had not been a problem this summer. The Tenant also commented that the drainage cover outside was cracked.

13. The Committee asked the Tenant to respond to the statement by the Landlord that its tradesmen had been refused access to the Property. She told the Committee that she had allowed one workman, called Alex, in to the Property. On one occasion, when she had been at the hospital for treatment all day, tradesmen arrived unannounced and she had not felt up to allowing them in. On another occasion, the Landlord's tradesman had arrived by appointment and had placed a piece of board over the hole and the exposed pipework under the kitchen floor, but he had then had to leave for to attend to a family matter and had not returned. There had been a couple of occasions when the Tenant had been told that workmen had arrived when she was out, but they had not made a prior appointment and had not left a card to allow her to contact them to make an alternative arrangement.

Summary of the issues

14. The issues to be determined were whether the Property met the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duties imposed on landlords by Section 14(1)(b) of the Act.

Findings of fact

15. The Committee finds the following facts to be established:-
 - The tenancy is a Short Assured Tenancy which commenced on 19 February 2009
 - The Property comprises a single storey dwellinghouse adjacent to garage commercial premises.
 - There is a section of the chipboard flooring in the kitchen missing, exposing the central heating and water pipes beneath. The vinyl has not been replaced.
 - There appears to have been water ingress under the kitchen floor.
 - The Committee found no evidence of ant infestation at the time of the inspection.
 - The central heating programmer does not appear to be connected to the thermostat.
 - Water is coming out of the shower attachment, but there appears to be no way of regulating the temperature of the hot water.
 - The Committee was unable to test the central heating or electrical installations to verify or otherwise the statement by the Tenant that the system kept "tripping" at the consumer unit. The consumer unit itself appears to be fairly modern.
 - The Committee has not seen an Energy Performance Certificate, an Electrical Installation Condition Report or a Gas Safety Certificate in respect of the Property.
 - The kitchen sink appeared to be draining adequately at the time of the inspection.
 - The frame of the bathroom door is split and one of the door panels is missing.
 - The Property does not have mains-wired smoke detectors or a carbon monoxide detector and there is no heat detector in the kitchen.
 - The cast iron drainage cover is cracked at the rodding point in the side driveway of the Property.

Reasons for the decision

16. The hole in the kitchen floor is an obvious tripping hazard and the chipboard floor should, after repair, be covered with vinyl or equivalent in order to be safe. The Committee is not satisfied that the cause of the water ingress at the kitchen floor has been resolved, so further investigation is required. The cracked external drain cover may have been a contributory factor to the water ingress, so requires to be replaced. The Committee accepts the Tenant's statement that she has to switch the central heating system on and off manually, as the programmer is not attached to the thermostat. The inability to control the temperature of the hot water coming out of the shower unit is an obvious scalding

hazard. The problems that the Tenant has had with the central heating and electrical systems require to be addressed, with the appropriate documentation then being produced to the Committee to confirm the installation is safe and in proper working order. The missing panel in the bathroom door requires to be replaced and the ironmongery checked and altered as necessary to ensure that the door can be readily unlocked from the inside. The Committee requires that the Landlord provides and installs smoke detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5389 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under Section 2 - Fire, sub-section 2.11 Communication. Although it did not form part of the Tenant's application, so could not be the subject of a Repairing Standard Enforcement Order, it is also recommended that the Landlord provides and installs a carbon monoxide detector compliant with the Scottish Government Statutory Guidance for the provision of carbon monoxide alarms in private rented housing and that the Landlord should provide the Tenant with a valid Energy Performance Certificate for the Property.

17. The Landlord was not present or represented at the hearing to provide evidence to the contrary, so the Committee accepts the Tenant's response to the Landlord's written statement that its tradesmen had been unable to gain access to carry out works, because the tenant refused them entry or had refused to answer the door.

Decision

18. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
19. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
20. The decision of the Committee was unanimous.

Right of Appeal

21. **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

22. 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. CLARK

Signed
Chairperson

..... Date... 6 September 2016



16 Bathgate Road, Blackburn, West Lothian, EH47 7LW
PRHP/RP/16/0173
Schedule of Photographs - Inspection Date 6/9/2016
Weather – Overcast, drizzle



1. The Property



2. Kitchen Floor



3. Kitchen Floor



4. Kitchen Floor



5. Central Heating Boiler



6. Central Heating Thermostat /Programmer



7. Shower Mixer Valve



8. Bedroom Door



9. Living Room Floor



10. Light Fitting



11. Broken Rodding Point Cover