



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Ref PRHP/RP/16/0233

23 Maree Place, Irvine, KA12 9PQ being the subjects registered in the Land Register of Scotland under Title Number AYR7825 ('the Property')

Rashid Abdool Peermamode and Tracy Olivia Peermamode, spouses, residing together at 15 Brookside, Hornchurch, Essex, RM11 2RR ('the Landlords')

Homesure Portfolio Management, 60 Kyle Street, Ayr, KA7 1RZ ('the Landlords' Representative')

Helen Kelly residing at 23 Maree Place, Irvine, KA12 9PQ ('the Tenant')

The Committee members are Jacqui Taylor (Chairperson) and Andrew Taylor (Surveyor Member).

NOTICE TO

The said Rashid Abdool Peermamode and Tracy Olivia Peermamode

Whereas in terms of their decision dated 24th September 2016, the Private Rented Housing Committee determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular the Landlords have failed to ensure that the fixtures and fittings and appliances provided by the Landlords under the Tenancy are in a reasonable state of repair and proper working order.

The Private Rented Housing Committee now requires the Landlords to carry out such work as is necessary for the purposes of ensuring that the Property 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 Landlords to:-

1. Repair or replace the extract fan in the downstairs bathroom and on completion carry out a certificated electrical condition check (EICR) by a suitably qualified and registered SELECT or NICEIC electrical contractor. Provide a copy of the EICR to the PRHP Committee. The said EICR should confirm the correct operation of the fan.
2. Engage a suitably qualified television aerial engineer to inspect, test and, if necessary, repair or replace the TV aerial, cabling and outlet. Provide documentary evidence to the PRHP Committee that the entire aerial installation is fully functional and fit for purpose.

The Private Rented Housing Committee order that these works must be carried out and completed and the said documentation exhibited to the PRHP Administration by 31st October 2016.

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.

Signed..... J Taylor Date 26th September 2016
Chairperson

witness: KEIRSTEN BYRNE, 65, High Street, Irvine



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

Ref PRHP/RP/16/0233

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Homesure Portfolio Management, 60 Kyle Street, Ayr, KA7 1RZ ('the Landlords' Representative')

Helen Kelly residing at 23 Maree Place, Irvine, KA12 9PQ ('the Tenant')

The Committee members are Jacqui Taylor (Chairperson) and Andrew Taylor (Surveyor Member).

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the Property, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. The Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords have failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").

2. The application stated that she considered that the Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. She advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation and the structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order.

In particular the application stated:-

- 2.1 Giant hole below kitchen cupboard.
- 2.2 There are vermin in the Property.
- 2.3 Aerial needs to be fixed.
- 2.4 Light in main bedroom needs to be fixed.
- 2.5 Light in downstairs toilet and fan are broken.
- 2.6 There is a crack in the wall to the side of the stairs.

3. On 1st August 2016, the President of the Private Rented Housing Panel ('PRHP'), having considered the application, comprising documents received between 29th June 2016 and 1st August 2016, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee. Thereafter the Tenant wrote to the PRHP Administration advising that she had received Notice to Quit and wanted to withdraw her application. On 12th August 2016 the President of the PRHP considered whether the application should be abandoned in terms of Schedule 2 Paragraph 7(2) of the Housing (Scotland) Act 2006. Given the nature of the

complaints she considered that the application should be determined on public interest grounds and continued to refer the application to a Private Rented Housing Committee.

4. The Committee members were Jacqui Taylor (Chairperson) and Andrew Taylor (Surveyor Member).

5. The President of The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlords and the Tenant, dated 23rd August 2016.

6. The Landlords' agents provided written representations:

6.1 They confirmed that the bathroom and bedroom lights have been rectified.

6.2 They provided an email from the Pest Control Department of North Ayrshire Council dated 25th August 2016 advising that two separate Pest Control Officers have attended the Property and found nothing.

6.3 They provided a report by Hugh Millar dated 23rd March 2016 advising that he had inspected the Property twice but found no evidence of vermin.

7. The Committee attended at the Property on 22nd September 2016. The Tenant was present at the inspection. The Landlords were not present at the inspection and were not represented.

The Property is an end terraced property. The accommodation comprises two bedrooms, living room, dining room and kitchen.

The Committee inspected the alleged defects and found:-

7.1 Giant hole below kitchen cupboard.

A new internal back panel had been installed to the kitchen unit below the kitchen sink. The hole referred to by the Tenant was below the kitchen unit. As the internal floor and sides of the kitchen unit obscured the view of the hole it was not possible to inspect the hole at the inspection.

7.2 There are vermin in the Property.

There was no evidence of vermin at the inspection. There were no droppings in the Property and the Committee could not detect the smell of urine mentioned by the Tenant. They also inspected the rear external wall of the Property and found that there were no holes visible.

7.3 Aerial needs to be fixed.

There was no TV in the Property and consequently it was not possible to test the TV aerial at the inspection.

7.4 Light in main bedroom needs to be fixed.

The Tenant confirmed that the light had been repaired. It was working at the inspection.

7.5 Light in downstairs toilet and fan are broken.

The Tenant confirmed that the light had been repaired. It was working at the inspection. However the fan was not working.

7.6 There is a crack in the wall to the side of the stairs.

The crack is a superficial crack to the artex wall covering at the side of the stairs.

Photographs were taken during the inspection and are attached as a Schedule to this report.

8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Volunteer Rooms, High Street, Irvine.

The Tenant attended the hearing. The Landlords did not attend but their representatives Alan Hall, branch manager of Homesure Properties, and Kim McKenzie, property manager of Homesure Properties attended for them.

In respect of the matters in the application they advised as follows:

8.1 Giant hole below kitchen cupboard.

The Tenant explained that she had provided the Committee with a photograph of the hole with her application. She showed the Committee the photograph on her phone as it was easier for the Committee to see the detail.

Kim McKenzie explained that The Tradesmen shop, Ayr had carried out repairs to the Property in May which had included sealing the hole from the kitchen to the external wall cavity. She exhibited a copy of their invoice for a number of repairs, including this work. She explained that she had specifically spoken to the tradesman about sealing the hole and he had confirmed that the hole had been sealed.

The Tenant advised that she had been in the Property when the work was being carried out and the hole had not been sealed.

8.2 There are vermin in the Property.

The Tenant advised the Committee that she had heard rats and there is a smell of rat urine in the Property. The chair person of the Committee asked her if she had filmed the sound of the rats on her phone but she advised that she had not done this.

Kim McKenzie referred the Committee to the reports provided from the two Pest Control and Hugh Millar which state that there are no vermin in the Property.

8.3 Aerial needs to be fixed.

The Tenant explained that as the aerial did not work she had subscribed to Sky TV. Kim McKenzie explained she had been in touch with The Tradesmen Shop to repair the aerial but access had not been provided.

8.4 Light in main bedroom needs to be fixed.

The Tenant confirmed that the light had been repaired.

8.5 Light in downstairs toilet and fan are broken.

The Tenant confirmed that the light had been repaired but the fan was not working.

8.6 There is a crack in the wall to the side of the stairs.

Kim McKenzie confirmed that she would arrange for The Tradesmen Shop to look at the crack when access was provided.

Summary of the issues

9. The issues to be determined are:-

9.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

Whether there is evidence of vermin in the Property resulting in the Property not being reasonably fit for human habitation.

9.2 The structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and proper working order (Section 13(1) (b) of The Housing (Scotland) Act 2006).

Whether the crack in the artex surface of the wall next to the staircase and the hole underneath the sink unit in the kitchen results in these items not being in a reasonable state of repair.

9.3 The fixtures, fittings and appliances provided by the Landlords under the tenancy are not in a reasonable state of repair and in proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

Whether the TV aerial, bathroom light and light and fan in the bathroom are in a reasonable state of repair and proper working order.

Findings of fact

10. The Committee found:

10.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

There was no evidence of vermin at the inspection as there were no droppings or smell of rat urine at the inspection.

They acknowledged the Tenant's evidence but preferred the evidence of the reports provided by the Landlords' representative to the effect that there are no vermin in the Property as the Committee had found no evidence of vermin at the Property and the Tenant had not filmed the sound of vermin on her phone, which she could easily have done.

Consequently the Committee determined that the Property is reasonably fit for human habitation.

10.2 The structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and proper working order (Section 13(1) (b) of The Housing (Scotland) Act 2006).

That the crack in the artex surface of the wall next to the staircase was cosmetic and did not affect the structure of the wall.

They also determined that as the kitchen sink unit concealed any hole underneath the unit and the Landlords' representative had produced a receipt for having the hole sealed the presence of the hole does not result in the Property not being in a reasonable state of repair and proper working order.

10.3 The fixtures, fittings and appliances provided by the Landlords are not in a reasonable state of repair and in proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

That the bathroom and bedroom lights are in a reasonable state of repair and proper working order.

The fan in the bathroom does not work and is NOT in a reasonable state of repair and proper working order.

In connection with the TV aerial, they accepted the Tenant's evidence that it does not work and found that it is NOT in a reasonable state of repair and proper working order.

Decision

11. The Committee accordingly determined that the Landlords had failed to comply with the duties imposed by Sections 13 (1)(d) of the Act, as stated.

12. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

13. The decision of the Committee was unanimous.

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.

J Taylor

Signed ...
Chairpers

..... Date 24th September 2016



23 Manee Place, Irvine, KA12 9PQ
 PRHP/RP/16/0233
 Schedule of Photographs - Inspection Date 22/9/2016
 Weather - Bright and sunny

J. Taylor



1. The property



2. Rear Elevation



3. Holes at Living Room radiator



4. Cracking to artex on stair



5. Cracking to artex on stair



6. Aerial wire living room



7. Hard wired smoke detector dining room



8. Hard wired heat detector



9. Hard wired smoke detector hall