



Notice of Revocation of Repairing Standard Enforcement Order

Issued by the Private Rented Housing Committee

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

prhp Ref: prhp/rp/15/0245

Re : Property at 15 Bank Street, Wigtown, Newton Stewart DG8 9HR ("the Property")

Sasine Description: All and Whole that house and yard Number 15 Bank Street, Wigtown in the County of Wigtown, described in Disposition in favour of Andrew Pagan Templeton, recorded in the Burgh Register of Wigtown (now the General Register of Sasines applicable to the County of Wigtown) on 13 August 1923.

The Parties:-

Kerry Johnstone and Gordon McClymont, both residing sometime at 15 Bank Street, Wigtown, Newton Stewart DG8 9HR details ("the Tenant") and

Mrs Amy Dill and Mr Robert Dill, both residing at 15 Lochancroft Lane, Wigtown, Newton Stewart DG8 9HZ ("the Landlord")

NOTICE TO

MRS AMY DILL AND MR ROBERT DILL ("the Landlord")

Considering that the Private Rented Housing Committee determined on 23 November 2016 to issue a Notice revoking the Repairing Standard Enforcement Order relative to the Property made on 11 January 2016, therefore in terms of Section 25(1)(b) of the Housing (Scotland) Act 2006 the Committee hereby revokes the said Order and that with effect from the date specified in Sections 63(4) and (5) of the said Act, being 28 days after the last date on which this decision may be appealed.

A landlord or tenant aggrieved by this decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of this decision.

In witness whereof these presents typewritten on this page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade on 23 November 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 25(1)(b) of the Housing (Scotland) Act 2006

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The Parties:-

Kerry Johnstone and Gordon McClymont, both residing sometime at 15 Bank Street, Wigtown, Newton Stewart DG8 9HR details ("the Tenant")

Mrs Amy Dill and Mr Robert Dill, both residing at 15 Lochancroft Lane, Wigtown, Newton Stewart DG8 9HZ ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has carried out the works required by the Repairing Standard Enforcement Order in respect of the Property made on 11 January 2016, or whether the Order should be varied or revoked, determined that the Landlord had not carried out all of the works required by the Order but that, having regard to all the circumstances, the Order should be revoked.

Background

1. By application dated 28 August 2015 and received on 2 September 2015, 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 structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,
 - (c) the installations in the house for the supply of water, gas and electricity and or sanitation, space heating and heating water are in a reasonable state of repair and in proper working order, and
 - (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,
3. By letter dated 16 October 2015, 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 Private Rented Housing Committee inspected the Property on the morning of 11 January 2016. The Committee comprised George Clark (Chairman) and Carol Jones (surveyor member).
5. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The McMillan Centre, Dashwood Square, Newton Stewart DG8 6EQ and heard from the Tenant. The Landlord was neither present nor represented at the hearing. Following the inspection and hearing, The Committee issued a Repairing Standard Enforcement ("the Order"). The Order required the Landlord:
 - To exhibit to the Committee an Electrical Installation Condition Report from a suitably qualified and registered electrician in respect of the Property and to carry out all remedial works recommended in the Report.
 - To replace the missing section of kick plate in the kitchen of the Property.
 - To carry out such repairs as are necessary to properly secure the power point in the living room of the Property and to replace or repair the cooker socket in the kitchen and ensure it is adequately sealed.
 - To have a suitably qualified roofing contractor inspect and repair all rainwater goods at the Property, including gutters and downpipes, to ensure all are secure and in proper working order.
 - To have a suitably qualified roofing contractor repair or replace all missing and slipped slates and clean off vegetation growth on the roof of the Property and carry out such works as are necessary to ensure that smoke cannot escape from cracks in the chimney stack.
 - To carry out such remedial work as is required to ensure the radiator in the back bedroom of the Property is in proper working order.
6. The Committee required the Landlord to carry out the work within a period of six weeks from the date of intimation to the Parties of the Notice of the Order.
7. The surveyor member of the Committee reinspected the Property on 18 April 2016. The Tenant had vacated the Property, so was not present or represented at the reinspection. The Landlord, Mr Robert Dill attended the reinspection.
8. The surveyor member reported to the Committee that the Landlord had instructed a building contractor to carry out works to repair/replace all the rainwater goods, gutters and downpipes at the Property. Scaffolding had been erected to the front elevation, a new PVC gutter and downpipe had been installed to the rear, a repair had been carried out to the leaking joint at the gutter on the rear single storey kitchen extension and the cast iron gutter to the front elevation had been renewed. The front down pipe had not, however, been replaced as at the date of the reinspection. The front pitch of the roof and part of the rear pitch under the dormer window had been completely re-slatted. Several broken slates had also been replaced to the rear pitch. The ridging had not been reinstated and all required works to the chimney remained outstanding. The Landlord had not exhibited an Electrical Installation Condition Report and no works had been done to the electrical installation in the Property. The Landlord had stripped out the kitchen and advised the surveyor member of the Committee that a new kitchen had been ordered. The double socket in the living room had not been secured. The cooker point remained in the condition it was in at the date of the original inspection.
9. A copy of the reinspection report was sent to the Landlord, who was given an opportunity to comment on its contents. The Landlord responded on 2 May 2016, saying that the kitchen had not been fitted because someone had expressed an interest in buying the Property and the cooker switch might have to be moved depending on where the cooker was to be fitted. The other socket could be repaired at the same time. The Landlord also advised that the Property was up for sale.
10. The surveyor member reinspected the Property on 29 September 2016. The Landlord, Mrs Amy Dill attended the reinspection.

11. The surveyor member reported that the Landlord had provided her with an Electrical Installation Condition Report for the Property dated 3 August 2016. It was prepared by John McKeown Electrical Contractors, an NICEIC approved contractor, and stated that the installation was "satisfactory". The front down pipe had been replaced, but neither this nor the front gutter had been painted. All roof works were now complete, the ridging had been reinstated and the chimney had been repointed and all cracks filled. No work had been done since the reinspection on 18 April 2016 on reinstating the fitted kitchen. Accordingly, the Landlord had not been in a position to replace the missing section of kick plate. The cooker point in the kitchen had not been replaced and there was no evidence of any works having been carried out to secure or seal it, but the Electrical Installation Condition Report did not raise any concerns in relation to the cooker socket. There was no evidence that the radiator in the back bedroom had been inspected or tested by a heating or plumbing engineer to check whether it was in proper working order. The heating was not on during the reinspection and it was not possible to establish whether the radiator heated up adequately.
12. A copy of the reinspection report was sent to the Landlord, who was given the opportunity to comment on its contents. The Landlord responded by letter received by the Private Rented Housing Panel on 24 October 2016, in which the Landlord stated that a plumber had checked the radiators. All the radiators had heated up and were very warm and no further work had been necessary.

Summary of Issues

13. The issues to be determined were whether the Landlord had carried out the works required by the Repairing Standard Enforcement order and, if not, whether it should be varied or revoked.

Findings of fact

14. The Committee finds the following facts to be established:-
- The Landlord has carried out all of the works required by the Order with the exception of the replacement of the missing kick plate in the kitchen and the replacement/repair of the cooker socket.
 - The Committee has been unable to check whether the radiator in the back bedroom is in proper working order.
 - The Landlord has advised the Committee that the Property is to be sold, rather than re-let.

Reasons for the decision

16. The Committee noted that the Property was vacant and that it could not be re-let until a new fitted kitchen had been installed. The Landlord had advised the surveyor member of the Committee at the reinspection that it was the Landlord's intention to sell the Property and that the Landlord had decided not to renew the fitted kitchen prior to the proposed sale. The Committee accepted that it would, in these circumstances, not be possible for the Landlord to fulfil the requirement of the Order in relation to the missing section of kick plate. The Committee had not been able to determine whether the radiator in the back bedroom was now in proper working order, as the central heating had not been switched on at the time of reinspection, but was prepared to accept the Landlord's statement that a plumber had checked the radiators. The Committee was also satisfied in relation to the cooker socket by the fact that it had not been raised as an issue in the Electrical Installation Condition Report which the Committee had seen. Accordingly, although the Committee could not hold that all of the works required by the Order had been carried out, it determined that the Order should be revoked.

Decision

15. The Committee accordingly determined that the Repairing Standard Enforcement Order in respect of the Property should be revoked.
16. The decision of the Committee was unanimous.

Right of Appeal

17. **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

18. 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

19. Signed Date 23 November 2016
Chairperson