



Statement of decision of the Private Rented Housing Committee under Section 60 of the Housing (Scotland) Act 2006

prhp Ref: PRHP/RP/14/0248

Re : Property at 34D Bayhead, Stornoway, Isle of Lewis HS1 2DX ("the Property")

The Parties:-

Geraint Brown, residing sometime at 34D Bayhead, Stornoway, Isle of Lewis HS1 2DX ("the Tenant")

Arshid Mohammed, residing at 46 Morrison Avenue, Stornoway, Isle of Lewis ("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 Repairing Standard Enforcement Order made by the Committee on 23 March 2015 in relation to the Property, and taking account of the evidence led by the Landlord at the hearing, determined that the Landlord had not completed the works required by the Repairing Standard Enforcement Order.

Background

1. By application dated 23 October 2014, 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 otherwise 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 21 November 2014, 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 served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.

5. The Private Rented Housing Committee inspected the Property on the morning of 26 February 2015. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Bayhead Bridge Centre Trading Limited, Lamont Lane, Bayhead, Stornoway and heard from the Landlord. The Committee comprised George Clark (chairman) and Sara Hesp (surveyor member).

Following the inspection and hearing, The Committee made a Repairing Standard Enforcement Order requiring the Landlord:

- (1). To instruct a suitably qualified electrician to carry out such repairs and remedial works as are required to ensure that the installation in the Property for the supply of electricity and the electrical fittings and appliances are in a reasonable state of repair and in proper working order and thereafter to provide an electrical inspection report by a suitably qualified electrician on the working order and condition of the installation in the Property for the supply of electricity, which report will also address the state of repair and working order of the electrical fittings and appliances.
- (2). To carry out such repairs to the external door of the Property as are necessary, including the fitting of a door plate at the bottom, to make the Property wind and water tight.
- (3). To carry out such repairs as are necessary to the washing machine in the Property and the connection to the cold water feed serving it to ensure that the washing machine is in a reasonable state of repair and in proper working order.
- (4). To carry out such works as are necessary to ensure that the floor surfaces and floor coverings in the Property are in a reasonable state of repair and do not present a tripping hazard to occupiers of the Property.
- (5). To carry out such works as are necessary to securely attach the wash hand basin in the shower room to the wall, and
- (6). To install in the Property a satisfactory system for detecting fires and for giving warning in the event of fire or suspected fire, which system should comply with the Domestic Technical Handbook Guidance and provide at least one functioning smoke alarm in the living/sleeping/kitchen area of the Property, one functioning smoke alarm in the hallway and one heat alarm in the kitchen area, all alarms being hard-wired and interlinked.

The Private Rented Housing Committee ordered that the works specified in the Order must be carried out and completed within the period of three months from the date of service of the Notice.

6. The Repairing Standard Enforcement Order was served on the Landlord on 23 March 2015.
7. The Committee reinspected the Property on the morning of 22 July 2015. The Landlord was present during the reinspection. The Tenant, having vacated the Property, was not present or represented at the reinspection or at the subsequent hearing at Bayhead Bridge Centre Trading Limited, Lamont Lane, Bayhead, Stornoway. The Landlord was present at the hearing and was accompanied and represented by Mr David Harris of Island Advocacy CIC.
8. Following the reinspection and hearing, the Committee found that the Landlord had not complied with the terms of the Repairing Standard Enforcement order and reported the failure to the local authority and the police.
9. The Landlord provided the Committee with an Electrical Installation Condition Report in respect of the Property dated 13 September 2016, issued by IP Electrics, 36 Lower Bauble, Stornoway, a Select Member.

10. The Committee reinspected the Property on the morning of 28 October 2016. The Landlord was present at the reinspection. The Tenant, having vacated the Property, was not present or represented at the reinspection or at the subsequent hearing held at Bayhead Bridge Centre Trading Limited, Lamont Lane, Bayhead, Stornoway. The Landlord was present at the reinspection and was represented by Mr Angus Macdonald, solicitor.
11. The weather at the time of the reinspection was dry and sunny.
12. A file of photographs taken at the reinspection is attached to and forms part of this Statement of Decision.
13. At the hearing, the Committee advised the Landlord that the Electrical Installation Condition Report provided to the Committee by the Landlord did not contain an answer to the question of whether the Overall Assessment of the installation in terms of its suitability for continued use was Satisfactory or Unsatisfactory. The Landlord's solicitor told the Committee that this appeared to have been an oversight on the part of the Select Approved contractor who had prepared the Report and that the Landlord would ask the contractor to reissue it with the relevant section completed.
14. The Landlord's solicitor noted comments made by the Committee that the smoke detection system did not include a smoke detector in the living/sleeping/kitchen area of the Property or a heat detector in the kitchen area and advised that this would now be attended to. He also noted the comments made by the Committee that a threshold bar was required to secure the floor vinyl at the front door of the Property.

Summary of the issues

15. The issues to be determined were whether the Landlord had complied with the Repairing Standard Enforcement Order.

Findings of fact

16. The Committee finds the following facts to be established:-
 - The Property is a ground floor property, comprising one habitable room as a living/sleeping/kitchen area and a bathroom, within a block of traditional construction more than 100 years old, with rendered walls under a slate roof.
 - Repairs and remedial works to the electrical installation have been carried out and an Electrical Installation Condition Report has been provided to the Committee. It was issued by a Select Member electrician on 13 September 2016, but Section E of the Report has not been completed, in that the electrician has not completed the Overall assessment of the installation in terms of its suitability for continued use as Satisfactory or Unsatisfactory.
 - The external door has been replaced and appears to be wind and water tight.
 - The washing machine in the Property has been removed.
 - The living/sleeping area has been carpeted and vinyl has been laid in the kitchen area and the two are connected by a generous threshold strip. Vinyl has been fitted in the shower room and hallway, but the vinyl is not securely fitted to the floor at the entrance doorway and represents a tripping hazard.
 - The wash hand basin in the shower room has been securely fixed to the wall.
 - The smoke detector in the hallway is mains-wired. There is no smoke detector in the living/sleeping/kitchen area and no heat detector in the kitchen area

Reasons for the decision

17. The Landlord has carried out some of the works required by the Repairing Standard Enforcement Order, but some items remain outstanding, namely the installation of a smoke detector in the living/sleeping/kitchen area and a heat detector in the kitchen area, the securing of the vinyl in the hallway and the satisfactory completion of Section E of the Electrical Installation Condition Report. In order to issue a certificate to the effect that the work required by the Order has been completed, The Committee will require to see a properly completed Electrical Installation Condition Report issued after the heat and smoke detectors have been installed. The Committee was also of the view that the installation of a threshold bar to secure the vinyl in the hallway at the front door is necessary in order to comply with the terms of the Order.

Decision

18. The Committee was, therefore, not satisfied that the work required by the Repairing Standard Enforcement Order in respect of the Property has not been completed.
19. The decision of the Committee was unanimous.

Right of Appeal

20. **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

21. 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... 28 October 2016



**Schedule of photographs taken during the inspection of 34D Bayhead Street,
Stornoway, HS1 2DX on 28 October 2016**



Entrance elevation



**Schedule of photographs taken during the inspection of 34D Bayhead Street,
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Front door threshold



Front door



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Front door



Living room/bedroom/kitchen



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Living room/bedroom/kitchen





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Living room/bedroom/kitchen





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Living room/kitchen/bedroom



Bathroom



**Schedule of photographs taken during the inspection of 34D Bayhead Street,
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Hallway flooring



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Hallway

