

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Case reference number : PRHP/ RP/15/0319

Re:- Property at 55 Millstream Court, Paisley, PA1 3RG ("the property")

Land Register Title number : **REN03504**

The Parties:-

Ms Pamela Clelland, residing at 55 Millstream Court, Paisley, PA1 3RG ("the tenant")

And

Mr Christopher McArthur, residing at Flat 2/2, 212 Newlands Road, Glasgow, G44 4EY per his agents Castle Residential, 63 Causeyside Street, Paisley, PA1 1YT ("the landlord")

Notice to Mr Christopher McArthur

Whereas in terms of the decision dated 5 February 2016 the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular the landlord had failed to ensure that:-

- (a) the house is wind and watertight and in all 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

The Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purpose of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of the works in terms of the order is made good.

In particular the Private Rented Housing Committee requires the landlords to carry out the following work

(a)...to provide two hob pan supports (grates) which fully match the original manufacturer's specification and which fit the hob correctly and allow all four rings on the hob to be operated safely or alternatively to replace it with a new hob, fully installed at the landlord's expense

(b)... to repair the oven to restore it to proper working order, including the "on" warning light and by having the control knobs replaced with spare parts which fully match the original manufacturer's specification and installed by a suitably qualified and registered electrician or alternatively to replace it with a new oven, fully installed at the landlord's expense

(c).. to repair the windows within the kitchen and bedrooms to remove internal condensation or alternatively to remove the windows in those rooms and replace them with new double glazing units, fully installed at the landlord's expense

The Private Rented Housing Committee orders that the works specified in this order must be carried out no later than 25 March 2016.

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. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the PRHP or the Committee which made the decision.

Where such an appeal is made the effect of the decision or of the order is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the order are to be treated as having effect from the day on which the appeal is abandoned or so determined.

James Bauld

Signed.....

Date *5 February 2016*

James Bauld, Chairperson

Claire Mullen

Signature of Witness.....

Date *5 February 2016*

Name: *CLAIRE MULLEN*

Address: 7 West George Street, Glasgow, G2 1BA

Designation: *SOLICITOR*



Determination by Private Rented Housing Committee

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 24(1) of the Housing (Scotland) Act 2006

Case Reference Number: PRHP/RP/15/0319

Re:- Property at 55 Millstream Court, Paisley, PA1 3RG ("**the property**")

Land Register title number REN03504

The Parties:-

Ms Pamela Clelland, residing at 55 Millstream Court, Paisley, PA1 3RG ("**the tenant**")

And

Mr Christopher McArthur, residing at Flat 2/2, 212 Newlands Road, Glasgow, G44 4EY per his agents Castle Residential, 63 Causeyside Street, Paisley, PA1 1YT ("**the landlord**")

The Committee comprised:-

Mr James Bauld - Chairperson

Ms Carol Jones - Surveyor member

Decision:-

The Committee unanimously decided that the landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the 2006 Act"). The Committee accordingly proceeded to make a Repairing Standard Enforcement Order ("RSEO") as required by Section 24(2) of the 2006 Act.

Background:-

1. By application dated 18th November 2015, the tenant applied to the Private Rented Housing Panel ("PRHP") for a determination that the landlord had failed to comply with the duties imposed by Section 14(1)(b) of the 2006 Act.
2. In the application made by the tenant she stated that she considered that the landlord had failed to comply with his duty to ensure that the house met the repairing standard and that in particular the property was not wind and watertight and in all other respects reasonably fit for human habitation and that the fixtures, fittings, and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order. By minute of decision dated 24th November 2015 the president of the PRHP decided to refer the application to a Private Rented Housing Committee.
3. The Committee members attended at the property on 18th January 2016 to carry out the inspection. The tenant was not present during the inspection but was represented by her father, Mr Alex Slimon and by a representative Dan Lockyer from Renfrewshire Citizens Advice Bureau, 45 George Street, Paisley, PA1 2JY. The landlord was not present but was represented by his agent Jamie Singh from Castle Residential. Following the inspection of the property the Committee held a hearing within Wellington House in Wellington Street, Glasgow. At the hearing the tenant was represented by her representative, Mr Dan Lockyer. The landlord was represented by Jacqueline McLelland from the letting agents, Castle Residential. Ms McLelland is the manager of Castle Residential.

The Inspection

5. During the inspection the Committee members were able to examine all the areas of complaint raised by the tenant. The Committee examined the hob and oven within the property. The committee examined the windows within the property and in particular, the windows in the kitchen and the two bedrooms.
6. During the inspection the Committee noted that it was accepted by the tenant's representatives that her complaints regarding the front door entry system and the provision of keys had been resolved. It was also noted that a carbon monoxide detector had been installed within the kitchen.
7. During the inspection, the Committee members noted that the pan supports on the hob did not fit the hob. They also noted that the control knobs on the fitted oven showed no markings at all which would indicate whether the oven was operating and at what temperature. The Committee also noted that the on light for the oven was not functioning.
8. During the inspection the Committee members also noted that the windows within the kitchen and the two bedrooms had internal condensation forming inside the double glazed panes.
9. The inspection was concluded and the Committee members travelled to the venue for the hearing.

The Hearing

10. The hearing commenced at approximately 1.35 pm. At the commencement of the hearing, there was no representative present on behalf of the landlord. Shortly after the Commencement of the hearing, Ms McLelland arrived. She indicated that she had attended at the PRHP offices at Europa House and had been re-directed to the correct venue.
11. During the hearing the Committee explored with the representatives of the parties the various issues which had been raised by the tenant and which had been apparent during the inspection.

12. Firstly the Committee discussed the issues of the fault with the hob. It was clear from the inspection that the hob pan supports (or grates) which sit on top of the hob to support pans while cooking were clearly the wrong size. They did not fit the hob itself. While they were in place it would be impossible to use two of the rings within the hob. It would also be dangerous to use a pot which would be sitting at an angle and not level. The tenant's representative indicated this demonstrated the appliance was not capable of being safely used.
13. The Committee then questioned parties with regard to the condition of the oven. The oven is a fitted oven which sits underneath the hob. It has two control knobs neither of which had any markings which would indicate the temperature of the oven. The oven also has a warning light to show when it is on. The warning light was not working. The tenant's representative indicated that the tenant was unable to use the oven as it was impossible to ascertain whether the oven was at the correct temperature. She was concerned that she would either undercook food or overcook it. The tenant's representative's position was the oven was not fit for purpose and not capable of being used properly.
14. The landlord's representative indicated that they had previously attended the property and were aware of the problem with the oven. They indicated that the tenant wanted a new oven. The landlord's representative indicated that the landlord's position was that they should be able to get something on a video available on the internet which would show where the markings should be and that the knobs could be appropriately marked. The landlord deemed the oven to be working on the basis it could be operated. The letting agent indicated they had not been instructed by the landlord to replace the oven and that they had no authority to do that without direct instructions from their client.
15. The Committee then questioned parties with regard to the windows. It was apparent during the inspection that the windows in the kitchen and the two bedrooms had internal condensation. The landlord's agent indicated they had sent a contractor to the property in mid-November who had provided them with an invoice for £70 and who said they had done work to seal the windows. The landlord's agent was not able to produce any invoice or any details of this work.
16. The tenant's representative indicated that the inspection showed that the double glazing had failed. The existence of condensation within the double glazed units indicated that the seals were broken. There was a high level of misting within the units of the windows in both bedrooms and the kitchen. The tenant's representative's position was that the windows clearly failed the repairing standard. In response, the landlord's representative indicated it would be a large financial undertaking to replace the windows but that the landlord would be happy to do so if the Committee took the view that they failed the repairing standard.
17. The next issue raised at the hearing was the question of gas safety.
18. The tenant had lodged with her application copies of documents which had been provided to her by Scottish Gas on 10th September 2015 when an inspection had taken place. These documents were safety warning/advice notes indicating that the boiler in the kitchen and the hob in the kitchen were "not to current standards". The notice indicated that the appliance was operating safely and was not either immediately dangerous or creating an "at risk" situation but it recommended that work was carried out to upgrade the installation to meet the current requirements. The tenant was concerned to have received such notices. At the hearing, the landlord's representative produced the Gas Safety Certificate which was dated 10th September 2015 and which indicated that for the purpose of the Gas Safety (Installation and Use) Regulations the property had been inspected and that the property had passed its inspection. The certificate did show that with regard to the hob and the boiler, letters had been left and the tenant had been advised that these appliances were not currently operating to current standards. The landlord's representative indicated to the Committee that the landlord was meeting his

- duty with regard to these appliances as they had passed inspection in terms of the relevant regulations. The tenant's representative indicated that it was clear that the appliances were not to current accepted standards but accepted that the documents indicated they were currently operating safely. He stated he would leave it to the Committee to decide whether there was a breach of the repairing standard.
19. The hearing was then concluded. The Committee explained to the representatives the various powers which the Committee had and explained to the parties what would happen if a repairing standard enforcement order was made. The representatives were asked if they had any final comments which they wished to make but they both confirmed they were happy that all matters had been fully canvassed at the hearing. The hearing was then concluded.

Findings of Fact

20. Having considered all the evidence the Committee found the following facts to be established:-
- (a) The subjects of let comprise a first floor flat within a four storey tenement building. The tenement is approximately twenty years old. The walls are of block construction with brick facing and the roof is pitched and tiled. The accommodation comprises an entrance hall, living room, two bedrooms, kitchen and bathroom. Within the kitchen there is a fitted hob. The pan support grates on the hob do not fit the hob which is installed.
 - (b) Within the kitchen there is a fitted under counter oven. The "on" light on the oven is not functioning. The control knobs on the oven provide no indication of levels of heat within the oven. It is not possible for the oven to be operated properly in its current condition.
 - (c) The double glazed windows within the kitchen and two bedrooms both show clear signs of internal condensation. It is clear that the seals within these windows are broken.
 - (d) Within the kitchen is a gas boiler. A certificate in terms of the Gas Safety (Installation and Use) Regulations 1998 was produced to the Committee showing that the gas appliances within the property had been inspected on 10th September 2015. The certificate bore to be from a properly registered Gas Safety Engineer and showed that the property had passed its gas safety check.

Reasons for Decision

21. The Committee considered the issues of disrepair set out in the application and noted at the inspection and hearing.
22. At the hearing the Committee posed questions to the landlord and tenant's representatives with regard to the complaints.
23. It was accepted by all parties that the complaints which had been raised by the tenant with regard to the access to the property via the front door had been resolved and that the door entry system had been repaired and the tenant had been provided with appropriate keys. The tenant also accepted that a carbon monoxide detector had now been fitted within the property. The Committee commented that the requirement to provide a carbon monoxide detector was only introduced on 1st December 2015 and did not currently apply to this property.
24. With regard to the tenant's complaint relating to the hob, it was apparent to the Committee during its inspection that the pan supports were entirely wrong. They did not fit the hob. They created a clear safety risk if anyone was using the hob to cook food or

boil water in a pan. The hob was an appliance provided by the landlord under the tenancy. It was not in a reasonable state of repair and it was not in proper working order. The Committee accordingly determined they would make an order requiring proper hob pan supports to be provided.

25. The Committee took the view that the oven in its current condition was completely inoperable. It was impossible to know what temperature was being reached within the oven. It would be impossible to cook any food within the oven with any degree of certainty. Again the Committee took the view that the oven was an appliance provided by the landlord under the tenancy and that it was not currently in a reasonable state of repair nor in proper working order. Accordingly the Committee determined they would make a Repairing Standard Enforcement Order in respect of the oven.
26. The Committee noted the existence of condensation within the double glazed panels of windows in the kitchen and both bedrooms. The Committee noted the landlord's representative's evidence that a contractor had been sent out in mid-November to carry out works. The Committee noted that no details of these works were available. The Committee noted that on the date of the inspection there was significant internal condensation which clearly demonstrated that the double glazing seals had failed. The windows form part of the structure and exterior of the house and it was clear they were not in a reasonable state of repair given the internal condensation. Accordingly, the Committee determined that they would make a Repairing Standard Enforcement Order requiring works to be carried out to the windows.
27. With regard to the queries relating to gas safety, the Committee noted that the landlord had produced a Gas Safety Certificate which was dated 10th September 2015. The date of this certificate was the same date as the warning/safety notices which had been left with the tenant. The Committee took the view that the landlord's duty in respect of gas safety under the Gas Safety (Installation and Use) Regulations was to have the appliances within the property checked at intervals of no more than twelve months and to obtain a certificate from a Gas Safety engineer confirming that they meet the regulations. The landlord had met the tests under the regulations.
28. However, the Committee noted that both the hob and the boiler had been certified by the engineer as not meeting current standards. While the Committee concluded that there was no apparent breach of the repairing standard in respect of the boiler, or the lack of flame supersession devices on the hob, the Committee would ask the landlord to note that these appliances do not meet the current standards and that consideration should be given to addressing these matters by the landlord.
29. The Committee accordingly took the view that they will require to make a Repairing Standard Enforcement Order in respect of the matters relating to the hob, the oven and the windows. The Committee noted that the landlord's representative had indicated that the landlord was aware of the tenant's complaints in respect of these matters and that the landlord had specifically instructed the landlord's agent not to resolve the complaint regarding the oven by the installation of a new oven. The Committee noted the landlord's representative's claim that the landlord believed that the oven could be fixed simply by the installation of new control knobs or by watching a video on the internet which would show how to appropriately mark the current knobs. The Committee noted that no such evidence was actually presented to them. The Committee also further took the view that any attempt simply to arbitrarily mark the control knobs would not resolve the tenant's anxiety that the oven was not working properly.
30. Accordingly the Committee took the view the property does not meet the repairing standard in respect of the following matters:-
 - (a) The provision of appropriate hob pan supports on the hob.
 - (b) The provision of appropriate controls to ensure that the oven was in proper working order.

(c) The double glazed windows within the kitchen and both bedrooms.

31. The Committee accordingly determined to make a Repairing Standard Enforcement Order as required in terms of Section 24(2) of the Act.
32. A schedule of photographs taken by the surveyor member of the Committee is attached to this decision. These photographs show an external view of the property, views of the hob and oven in the kitchen and views of the windows and the internal misting. The photographs also show the carbon monoxide alarm which has been installed in the kitchen.
33. The decision of the Committee to issue the Repairing Standard enforcement Order was unanimous.

Rights of Appeal

34. 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.
35. 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

36. 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.
37. 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.

James Bauld

Signed.....

Date..... *5 February 2016*

James Bauld, Chairperson

Claire Mullen

Signature of Witness.....

Date..... *5 February 2016*

Name: *CLAIRE MULLEN*

Address: 7 West George Street, Glasgow, G2 1BA

Designation: *SECRETARY*



Schedule of photographs taken during the inspection of 55, Millstream Court, Paisley
PA1 3RG
by the Private Rented Housing Committee on the 18th January 2016.

Reference Number : PRHP/RP/15/0319



External view - Front elevation of property



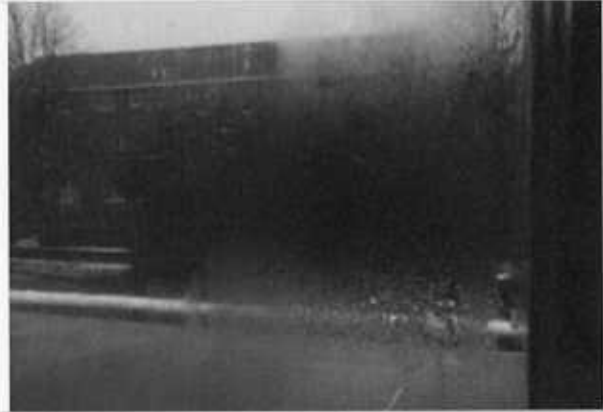
Gas Hob in Kitchen



Electric Oven in Kitchen



Carbon Monoxide Alarm in Kitchen



Kitchen Window



Front Bedroom Window



Back Bedroom Window