



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**

In connection with

**Property at 4/8 Dumbryden Grove, Edinburgh EH14 2QP (hereinafter referred
to as “the House”)**

**Kittitach Pichatwatana residing at 4/8 Dumbryden Grove, Edinburgh EH14 2QP
(hereinafter referred to as “the Tenant”)**

**Agnes Longmore Whyte 67/4 Dumbryden Gardens, Edinburgh EH14 2NU
(hereinafter referred to as “the Landlord”)**

PRHP REFERENCE PRHP/RP/16/0006

DECISION

The Committee having made such enquiries as are fit for the purposes of determining whether the Landlord has complied with the duty imposed by section 14(1)(b) of the Housing Scotland Act 2006 (hereinafter “the Act”) in relation to the House, and taking account of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application received on 13 January 2016 (hereinafter referred to as “the Application”) the Tenant applied to the Private Rented Housing Panel (hereinafter “the PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and, in particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

*“(c) 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,
(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 safely for the purpose for which they are designed.”*

The Tenant complained of defects in relation to the gas boiler and a kitchen cupboard.

By letter of 8 February 2016, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

On 9 February 2016, the Committee was advised by the Tenant that the matters complained of in the Application had been addressed and that the Tenant wished to withdraw the Application. On 1 March 2016, the Committee issued a Minute of Continuation in which it resolved to continue with the Application.

Thereafter, a new Committee was formed. It comprised the following members:

John McHugh, Chairperson
Ian Murning, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

The Committee inspected the House on 22 July 2016. The Tenant’s wife was present. The Landlord was neither present nor represented.

The Tenant’s wife had little information about the matter and advised that the kitchen cupboard which had fallen down had been reattached to the wall and that a new boiler had been installed. She was unaware of when these works had been completed or by whom. She had seen no documents regarding the installation of the new boiler.

A hearing took place thereafter at George House, Edinburgh. Neither party was present nor represented.

Submissions at the Hearing

None.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14 (1)(b).

Findings in Fact

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

The Landlord and the Tenant have entered into a written Tenancy Agreement dated 18 November 2010.

The landlord is noted as Agnes Whyte and the tenants as Mr Kittitach Pichatwatana and Mrs Piyapond Pichatwatana.

A tenancy exists between the Landlord and Tenant.

Agnes Longmore Whyte is the registered owner of the House.

The Tenant took possession of the House from 18 November 2010 and remains in occupation.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defects in the House which are now the subject of the Application by email dated 25 December 2015 addressed to the Landlord's agent.

The inspection on 22 July 2016 revealed:

The House is a top floor flat in a block consisting of a ground floor with three storeys above.

The kitchen cupboard which had fallen from the wall has been reattached.

A door is missing and another is hanging off one of the lower units.

A new boiler appears to have been installed in the kitchen recently.

The only fire detection device is a mains operated smoke detector in the hall.

A schedule of photographs taken at the inspection is appended to this Determination.

Reasons for the Decision

Kitchen Cupboard

The cupboard which was the subject of the complaint had been reattached to the wall. We therefore found no breach of the repairing standard in this regard.

Boiler

A new boiler has been fitted. Despite previous requests to the Landlord from the office of the PRHP for all paperwork relating to its installation, no Landlord's Gas Safety Certificate has been produced. Mrs Pichatwatana had not seen a Landlord's Gas Safety Certificate.

There appears to be no Certificate and, accordingly, we consider there to be a breach of the repairing standard.

Repairing Standard Enforcement Order

Having decided to make a Repairing Standard Enforcement Order, the Committee considered the length of time which should be provided for compliance. The Committee elected to impose a period of 28 days having regard to the fact that the defect identified has the potential to impact upon the health and safety of occupants of the House.

Observations

The only fire detection device is a mains operated smoke detector in the hall. The Landlord is advised to review the current arrangements having regard to the terms of the Scottish Government Guidance on Satisfactory Provision for Detecting and Warning of Fires.

Other kitchen units which were not the subject of the Application are in need of repair and the Landlord would be well advised to attend to this.

Decision

The Committee, considering the terms of section 13(3) of the Act, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(2) of the Act.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

John McHugh

John M McHugh
Chairperson

Date: 25 July 2016

4/8 Dumbryden Grove Edinburgh EH14 2QP

Photos from inspection

PRHP/RP/16/0006

22nd July 2016

Surveyor Ian H Murning TD

22/07/2016

1

Front Elevation of Block View 1



22/07/2016

2

Front Elevation of Block View 2



22/07/2016

3

Cupboard Re-Attached to Kitchen Wall



22/07/2016

4

1 x Door Missing 1 x Door Hanging Off Sink Unit



22/07/2016

5

General View of Hob & Oven



22/07/2016

6

Baxi Combi Wall Mounted Boiler Operating



22/07/2016

7

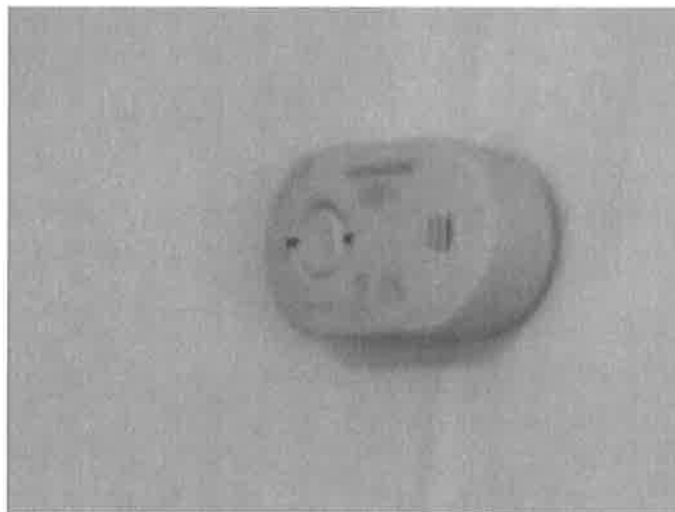
Baxi Combi Boiler Showing Connections



22/07/2016

8

Wall Mounted CO Detector in Kitchen



22/07/2016

9

Mains Wired Smoke Alarm on Hall Ceiling



22/07/2016

10



REPAIRING STANDARD ENFORCEMENT ORDER
Ordered by the Private Rented Housing Committee

RE: Property at 4/8 Dumbryden Grove, Edinburgh EH14 2QP more particularly described in Land Certificate Title number MID49863 (hereinafter referred to as “the House”)

The Parties:

Kittitach Pichatwatana residing at 4/8 Dumbryden Grove, Edinburgh EH14 2QP (hereinafter referred to as “the Tenant”)

Agnes Longmore Whyte 67/4 Dumbryden Gardens, Edinburgh EH14 2NU (hereinafter referred to as “the Landlord”)

PRHP REFERENCE PRHP/RP/16/0006

NOTICE TO AGNES LONGMORE WHYTE

WHEREAS in terms of their decision dated 25 July 2016 the 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 the House meets the repairing standard in that:

“(c) 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.”

The Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House 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 Committee requires the Landlord:

To produce a Landlords Gas Safety Certificate issued by a Gas Safe registered engineer confirming that the gas central heating system is in safe working order.

The Committee orders that the works specified in this Order must be carried out and completed within 28 days from the date of service of this Notice.

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 the decision.

Where such an appeal is made, the effect of the decision and 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 signed by John Miller McHugh, Chairperson of the Private Rented Housing Committee at Edinburgh on the Twenty Fifth day of July Two Thousand and Sixteen in the presence of the undernoted witness:

John McHugh

Chairperson

Lesley Van Rooyen

Witness

LESLEY VAN ROOYEN

Witness Address

65 HAYMARKET TERRACE
EDINBURGH