



Determination by Private Rented Housing Committee

Statement of decision of the Private Rented Housing Committee under Section 26 (1) of the Housing (Scotland) Act 2006

Reference Number: PRHP/RP/14/0195

Re: Property at 52 Nettlehill Drive, Uphall Station, Livingston, EH54 5PS, all as more particularly described in and registered in Land Certificate WLN15147 (hereinafter referred to as "the property").

The Parties:-

Miss Clayre Elder residing at 52 Nettlehill Drive, Uphall Station, Livingston ("the Tenant")

And

Miss Kellie Anne Lees (also known as Ms Kellie-Ann Patricia Mary Lees) residing at 1 Marble Avenue, Dreghorn, Irvine, KA11 4BE and Mr. Thomas Eugeniuz Barr residing at 126 Carmondean Centre, Livingston EH54 8TD ("the Landlords").

The Committee comprised:-

Mrs Patricia Anne Pryce	-	Chairperson
Mr Michael Links	-	Surveyor Member

Background

1. On **16th January 2015**, the Private Rented Housing Committee ("the Committee") issued a determination which stated that the Landlords had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act"). On the same date, the Committee issued a Repairing Standard Enforcement Order ("RSEO") in respect of the property.
2. The RSEO made by the Committee required the Landlords to:-
"to carry out such works as are necessary to ensure that:-
 - (a) All installations in the property for the supply of electricity are in a reasonable state of repair and in proper working order, in particular, the switchboard in the cupboard under the stairs; and
 - (b) The locking mechanism of the back door is replaced so that the back door can be locked securely; and
 - (c) The boiler is fully functioning so that it provides running hot water and central heating to the property; and

- (d) The ceiling in the dining area off the kitchen is stable and will not fall down; and
 - (e) The bathroom floor is dried out; and
 - (f) The shower rail in the bathroom works without falling down; and
 - (g) The burglar alarm is in proper working order.
 - (h) After all of the above necessary works have been carried out, the Landlords are required to produce to the Committee: a report prepared by a qualified electrician confirming that the switchboard is in a reasonable state of repair and in proper working order; a report by a suitably qualified tradesman confirming that the ceiling of the dining area is stable, will not fall down and is in a reasonable state of repair."
3. The Committee ordered that the works specified in the RSEO were to be carried out and completed within 21 days of the date of service of the Notice, that is, by 6 February 2015.
 4. On 17 March 2015, the surveyor member of the Committee which issued the RSEO attended at the property for the purpose of ascertaining whether the said repairs required by the RSEO had been completed. He found that not all of the works specified in the RSEO had been carried out and that the said specified works had not been completed in that: the back door lock had been replaced but required to be securely fixed and there appeared to be a missing bolt, the ceiling in the dining area had not been dealt with, the bathroom floor was still wet, the shower rail was fixed but the curtain slides were not secure allowing the curtain to fall away and water to drip to the floor, an electrician's report had not yet been provided and, finally, a report from a tradesman on the dining area ceiling had not yet been provided.
 5. A copy of the re-inspection report of the surveyor member was sent to the parties. By letter dated 9 April 2015, the Landlord, Miss Lees, indicated that she did not agree with the terms of the said surveyor's report, that the works had been carried out, that a Rent Relief Order ("RRO") should not be issued and that she requested an oral hearing before the Committee. By letter dated 14 April 2015, the Tenant indicated that she did agree with the terms of the surveyor's report, that an RRO should be granted to the extent of 90% of the £575 per month total which the Landlords received by way of rent for the property and that the Tenant did not wish a further oral hearing.
 6. The Committee agreed to a further re-inspection of the property and to allow a further oral hearing to take place as requested by Miss Lees. This was arranged for 20 July 2015. Miss Lees then applied to the Committee for a postponement of the re-inspection and the hearing. The Committee granted this and the further inspection and hearing were re-arranged for 21 July 2015. Miss Lees advised that she could not attend the inspection. However, the hearing was arranged to take place in the offices of the Private Rented Housing Panel within the Europa Building to allow Miss Lees to phone in to the hearing during her lunch hour from work. The Tenant advised that she was available for the inspection but could not attend the hearing as she had to take care of her two young children.
 7. The re-inspection took place on 21 July 2015. The Committee attended at the property carried out a thorough inspection of the property. The Tenant was present during the inspection but the Landlords were not. The Committee noted that the Tenant was content

with the electrical works which had been carried out on the property. The Tenant advised that the electricians within the property were working properly. The Landlord, Miss Lees, had produced to the Committee an Electrical Installation Condition Report dated 24 January 2015 which confirmed that all of the electrical installations within the property were in good condition, including the switchboard under the stairs. The Committee found that although there was a screw loose at the bottom of the locking mechanism of the back door, the locking mechanism had been replaced and now locked securely. The Tenant confirmed that the back door could now lock securely. The Committee found that the boiler had been repaired and the Tenant confirmed that the boiler now provided hot water and heating without any difficulty. The Committee noted that the shower rail in the bathroom had been replaced and no longer fell down. The Tenant confirmed to the Committee that the burglar alarm had been fixed and now was fully functioning. However, the Committee noted that the ceiling in the dining area located off the kitchen had not been repaired. Furthermore, the Committee noted that the bathroom floor upstairs was very damp at either end of the bath. The Tenant advised that the water was still overflowing from the shower end of the bath onto the floor and into the dining area ceiling below. The Tenant advised that this was due to a gap where the shower rail was located and the shower curtain. The Tenant advised that she tried to place lots of towels on the floor of the bathroom when she and her family were showering but the towels would get very wet and, consequently, so would the bathroom floor due to the overflow of water which came from where the former shower screen had been located. The Tenant advised that this water dripped down onto the rear of the dining ceiling. The Committee took damp meter readings of the rear of the dining ceiling which recorded high damp meter readings in this area of ceiling. Schedule of Photographs dated and taken 21 July 2015 is attached and referred to. This Schedule of Photographs shows the Committee taking the damp meter readings of the rear dining area ceiling and the wet bathroom floor. The Committee noted that the Landlords had not provided a report by a suitably qualified tradesman confirming that the ceiling of the dining area is stable, will not fall down and is in a reasonable state of repair and that no works had been carried out on the ceiling of the dining area to ensure its stability. The Tenant advised the Committee that she would not be able to attend the hearing in Glasgow as she had been unable to secure alternative childcare for her children.

8. The Committee attended at the offices of the PRHP in the Europa Building in Glasgow. A member of the Administration of the PRHP attempted several times between 1 pm and 1.35 pm to phone the number provided by Miss Lees by way of an email to the PRHP on the morning of the 21 July 2015. However, the Landlord did not answer her phone despite having arranged with the PRHP that she would make herself available by phone from 1 pm onwards for about 30 minutes during her lunch hour. PRHP Administration left a message on the Landlord's voicemail requesting that she phone the PRHP. No phone call was received by the PRHP. The Landlord made no attempt to contact the PRHP or the Committee. The Committee decided to proceed with the hearing in terms of Regulation 24 of the Private Rented Housing Panel (Applications and Determinations)(Scotland) Regulations 2007 in the absence of the Miss Lees as the Committee was satisfied that the terms of Regulation 19 of the said Regulations had been complied with in terms of providing Miss Lees with sufficient notice of the hearing. The Committee proceeded with the hearing considering all the material placed before it together with all of the representations which had been made by the parties.

Decision

9. The Committee carried out a thorough inspection of the property. The Committee noted that some of the works had been carried out in terms of the RSEO. However, the Committee noted that the bathroom floor remained very wet and that the ceiling in the dining area had not been repaired. As a consequence, the Landlords had not produced a report by a suitably qualified tradesman confirming that the ceiling of the dining area was stable, would not fall down and is in a reasonable state of repair. The Committee took the view that these works remained outstanding in terms of the RSEO.
10. The Committee took the view that the Landlords had ample time to carry out the remaining works and that the Landlords were simply ignoring those parts of the RSEO which remained unsatisfied.
11. Accordingly, the Committee took the view that the Landlords' failure to implement all of the works in the RSEO amounted to a breach of the RSEO. In accordance with the relevant provisions of Section 26 of the 2006 Act, the Committee required to determine whether an RRO should be made.
12. The Committee took the view that the works required by the RSEO had been outstanding for well over six months. The Committee took the view that these works could have easily been completed in that period of time. The Committee took the view that the failure to carry out the works was having an impact on the Tenant's ability to fully enjoy the property. The Committee took the view that the state of repair of the ceiling within the dining area presented a potential danger as the water continued to overflow from the bathroom above.
13. In all the circumstances, the Committee determined that they would make a Rent Relief Order. The Committee took the view that the appropriate proportion of rent which should be subject to the RRO was 25% of the monthly rent of £575, namely £143.75 per month. The Committee accordingly determined to make an RRO in those terms.
14. The decision of the Committee was unanimous.

Rights of Appeal

15. 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.
16. 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

17. 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.

18. 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.

P PRYCE

Signed

Date

10th April 2015.

Patricia Anne Pryce, Chairperson

N RUSSELL

Signature of Witness

Date

10/8/15.

Address Europa Building, 450 Argyll Street, Glasgow, G2 8UH.

Designation TEAM LEADER.

52 Nettlehill Drive, Uphall Station, Livingston EH54 5PS

Schedule of photographs: 21st July 2015



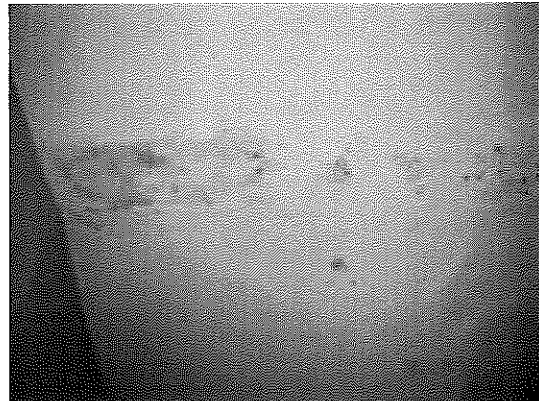
Front Elevation



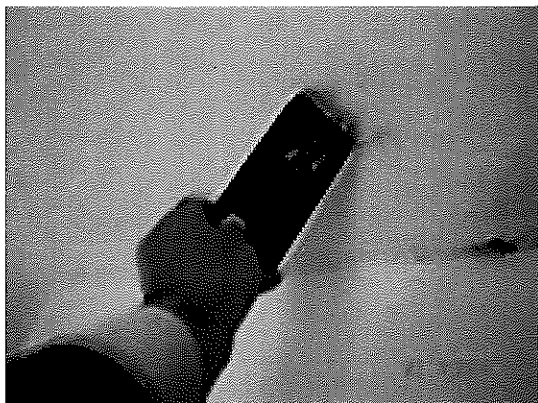
Rear elevation



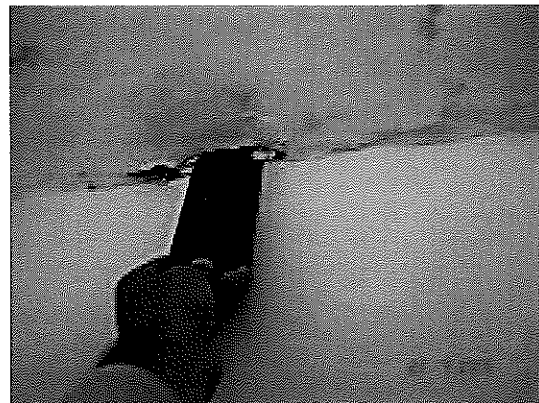
Dining Area- ceiling rear sect



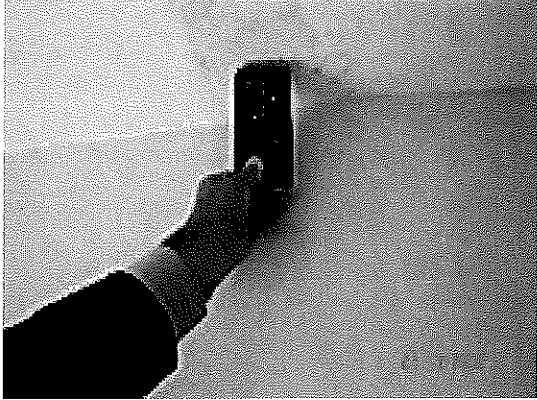
Dining Area- ceiling front sect



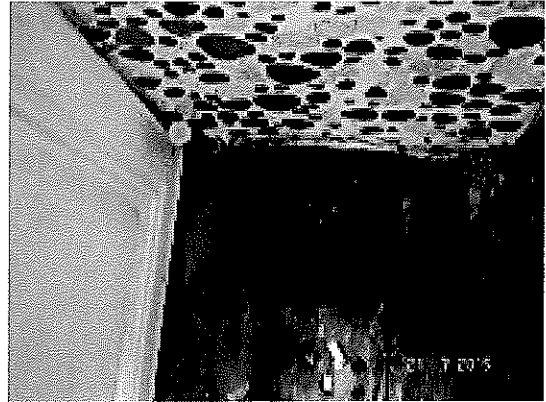
Damp reading-rear sect



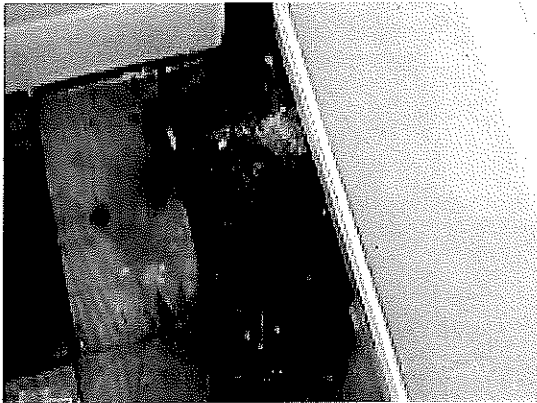
Damp reading-rear section



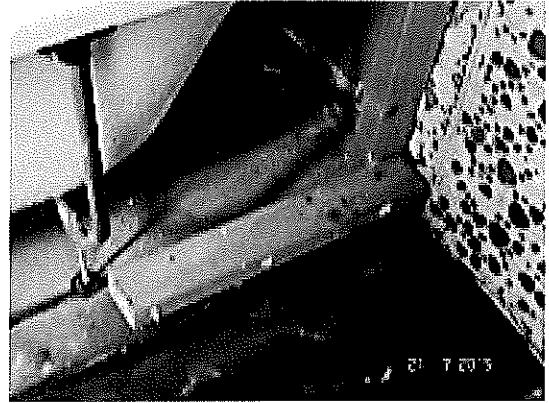
Damp reading-front section



Bathroom floor-damp reading



Bathroom floor-damp reading



Bath floor-panel removed



Bath-flooring



Boiler



Rear door lock



Rent Relief Order

Ordered by the Private Rented Housing Committee

Reference Number: PRHP/RP/14/0195

Re: Property at 52 Nettlehill Drive, Uphall Station, Livingston, EH54 5PS, all as more particularly described in and registered in Land Certificate WLN15147 (hereinafter referred to as "the property").

The Parties:-

Miss Clayre Elder residing at 52 Nettlehill Drive, Uphall Station, Livingston ("the Tenant")

And

Miss Kellie Anne Lees (also known as Ms Kellie-Ann Patricia Mary Lees) residing at 1 Marble Avenue, Dreghorn, Irvine, KA11 4BE and Mr. Thomas Eugeniuz Barr residing at 126 Carmondean Centre, Livingston EH54 8TD ("the Landlords").

NOTICE TO Miss Kellie Anne Lees (also known as Ms Kellie-Ann Patricia Mary Lees) residing at 1 Marble Avenue, Dreghorn, Irvine, KA11 4BE and Mr. Thomas Eugeniuz Barr residing at 126 Carmondean Centre, Livingston EH54 8TD.

In terms of their decision dated **10th August 2015**, the Private Rented Housing Committee ("the Committee") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the Act") that the Landlords have failed to comply with the Repairing Standard Enforcement Order in relation to the property made by the Committee.

The Committee determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the property by an amount of 25% of the monthly rent (being £143.75 per calendar month of the current monthly rent of £575) which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under Section 64 of the said Act.

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. Where the appeal is abandoned or finally determined by confirming the decision, the Rent Relief Order will take effect 28 days after the date on which the appeal is abandoned or the decision is confirmed.

Signed

P PRYCE

Date

10th August 2015

Patricia Anne Pryce, Chairperson

Private Rented Housing Committee

Signature of Witness  Date 10/8/15.

Name NATASHA RUSSELL

Address Grexa Building, 450 Argyll Street, Glasgow, G2 8LH.

Designation TEAM LEADER.

