

Determination by the Private Rented Housing Committee

Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

Re : Property at 1 Westfield Avenue, Dundee (“the Property”) being All and Whole the eastmost basement house at 1 Westfield Avenue, Dundee, I, II and III referred to in Disposition to Francis Beattie recorded in the general Register of Sasines on 16 March 1961

The Parties:-

Miss Beverly Robertson, 1 Westfield Avenue, Dundee (“the Tenant”)

Mrs I Ismail c/o Shampan Property, 4 Westfield Place, Dundee (“the Landlord”)

Decision

The Committee, having noted that the Landlord had failed to provide an Electrical Installation Test Certificate from a NIC/EIC registered electrician in terms of the Varied Repairing Standard Enforcement Order issued by the Committee on 28 January 2009; Find that the Landlord has failed to comply with the said Repairing Standard Enforcement Order within the period of 21 days from the date of service of the notice being, 30th January 2009 Resolve to serve notice of the failure on the Local Authority and Order that a Rent Relief Order be made.

Background

1. On 23 September 2008, the Private Rented Housing Committee having determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) issued an Order requiring the Landlord to:
 - a. Provide a copy of the current gas safety certificate.
 - b. Provide a copy of an up to date Hydro Electric Test Certificate.
 - c. Ensure that the method provided for smoke detection is in proper working order.
2. The property was re-inspected on 21 November 2008 by the surveyor member of the Committee. A copy of the Landlord’s gas safety certificate dated 23 November 2008 was produced and the Committee accordingly considered that the Landlord has complied with this part of the Order.
3. The surveyor member also observed that the smoke alarm was now functioning and accordingly the Committee considered that Condition c. had been complied with. At the re-inspection, however, the Landlord was unable to produce an Electrical Test Certificate and accordingly it was necessary for the Committee to reconvene.
4. The Committee reconvened on 16 January 2009. The Landlord was represented by Mr Chowdhury.
5. Mr Chowdhury advised the Committee that he had written three letters to the Hydro Electric Board but had not had a reply. He explained that the difficulty was that the Hydro Electric Board were only involved in supplying the meters. He stated that in connection with the re-wiring, he was not quite sure what the Committee were looking for. He advised that the whole house had recently been re-wired.

6. Mr Chowdhury was advised by the Committee that he would either require to get the Electrician who did the re-wiring to issue a Test Certificate or alternatively have the property inspected by a NIC/EIC Registered Electrician and supply an electrical installation test certificate.
7. Mr Chowdhury stated that there was no difficulty in him doing this. He clarified that if during the inspection anything came to light that required work, he would have this fixed and then provide the certificate. Mr Chowdhury indicated that twenty one days should be a sufficient time for him to deal with the matter.
8. After the hearing had concluded, the Tenant, Ms Robertson appeared and apologised for being late. Ms Robertson was advised that the Committee had already dealt with the hearing and determined the matter. She was advised of what the Committee's decision was.
9. The Notice of Decision to Vary a Repairing Standard Enforcement Order, was served on the Landlord on 30th January 2009 requiring that the Certificate required to be produced within a period of 21 days. This was not done by the Landlord. The Committee accordingly reconvened on 7 May 2009 and notice of the reconvened hearing was served on the Landlord and the Tenant on 19 March 2009.
10. The Committee was scheduled for 11am and neither the Landlord or the Tenant were present by 11.30am and the Committee accordingly resolved to proceed in the absence of the Landlord and the Tenant.
11. The Clerk to the Committee confirmed that no Certificate had been sent to the panel's office. No explanation for the failure to provide the Electrical Installation Test Certificate has been provided by the Landlord. The Committee noted that at the hearing on 16 January 2009 Mr Chowdhury advised that he would have no difficulty in providing an Electrical Installation Test Certificate and that if during the inspection anything came to light that required work he would have this fixed and then provide the Certificate. Despite this nothing has been provided by the Landlord. The Committee also noted that the original order had been made in July 2008 and the Landlord has accordingly had ample opportunity to comply.
12. The Committee having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the Repairing Standards Enforcement Order find in terms of Section 26(1) of the Act that the Landlord has failed to comply with the Repairing Standard Enforcement Order as varied without reasonable excuse and resolve to serve notice of the failure on the Local Authority and decide that a Rent Relief Order is appropriate.
13. The Committee decided that the Rent Relief Order should reduce any rent payable under the tenancy by 90% due to the potentially dangerous nature of the defect

Decision

1. The Committee resolved to serve notice of the Landlord's failure to comply with the Repairing Standard Enforcement Order on the Local Authority.
2. The Committee proceeded to make a Rent Relief Order in terms of Section 27 of the Act to take effect 28 days after the last date on which the decision to make a Rent Relief Order may be appealed under Section 64 of the Act.
3. The decision of the Committee is unanimous.

Right of Appeal

1. 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

2. 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.

Signed
Chairperson

J Lea

..... Date...

20 May 2009

Rent Relief Order

Ordered by the Private Rented Housing Committee

Re: Property at 1 Westfield Avenue, Dundee ("the Property") being All and Whole eastmost basement house, 1 Westfield Avenue, Dundee, I, II and III referred to in Disposition to Francis Beattie recorded in the general Register of Sasines on 16 March 1961

The Parties:

Miss Beverly Robertson, 1 Westfield Avenue, Dundee ("the Tenant")

Mrs I Ismail c/o Shampan Property, 4 Westfield Place, Dundee ("the Landlord")

NOTICE TO Mrs I Ismail c/o Shampan Property, 4 Westfield Place, Dundee ("the Landlord")

Whereas in terms of their decision dated 20 May 2009, the Private Rented Housing Committee ("the Committee") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order as varied in relation to the property made by the Committee.

The committee determined to make an 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 90% of the rent 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.

J Lea

J V Lea
Chairperson
Private Rented Housing Committee
20 May 2009

certified a true copy
J Lea