



Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

Ref: PRHP/G73/104/11

Re: Property at 83 Calderwood Road, Rutherglen, Glasgow G73 3PL ("the Property")

TITLE NUMBER LAN178477

The Parties:-

MR ANDREW DUFFIN and MRS AMANDA DUFFIN, Spouses, residing together at 83 Calderwood Road, Rutherglen, Glasgow G73 3PL ("the Tenants")

MR JOHN SHARKEY, per his Manging Agents, Stonelaw Properties, having a place of business at 281 Stonelaw Road, Glasgow G73 3RN ("the Landlord")

NOTICE TO MR JOHN SHARKEY, per his Manging Agents, Stonelaw Properties, having a place of business at 281 Stonelaw Road, Glasgow G73 3RN ("the Landlord")

Whereas in terms of their decision dated 22nd September 2011, the Private Rented Housing 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:-

1. The house has satisfactory provisions for detecting fires and for giving warning in the event of fire or suspected fire.

The Private Rented Housing Committee now require the Landlord to carry out such work as is necessary for the purposes of ensuring that the provisions for detecting fires and for giving warning in the event of fire or suspected fire within the property comply with the statutory guidance of the Repairing Standard and in particular require that mains powered smoke alarms are installed. The Committee requires that at least one smoke alarm is installed on each floor of the property and that the smoke alarms are interlinked in accordance with the statutory guidance of the Repairing Standard. The alarms should be installed in accordance with the recommendations contained in the British Standard on the Design of Fire Detection Installation for Dwellings (BS5839 Part 6).

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed by not later than 31st October 2011.

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, 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.

A Cowan

Signed [Signature] Date 28/9/11
Chairperson

C A Millar

Witness.....

Name in full CAROL ANNE MILLAR

Address 7 WEST GEORGE ST. GLASGOW G2 1BA.



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

Ref: PRHP/G73/104/11

Re: Property at 83 Calderwood Road, Rutherglen, Glasgow G73 3PL ("the Property")

TITLE NUMBER LAN178477

The Parties:-

MR ANDREW DUFFIN and MRS AMANDA DUFFIN, Spouses, residing together at 83 Calderwood Road, Rutherglen, Glasgow G73 3PL ("the Tenants")

MR JOHN SHARKEY, per his Managing Agents, Stonelaw Properties, having a place of business at 281 Stonelaw Road, Glasgow G73 3RN ("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 duty imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property concerned, and taking account of the evidence led in writing and at the hearing, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

Background

- 1 By application dated 3rd May 2011 the Tenants applied to the Private Rented Housing Panel for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of The Housing (Scotland) Act 2006.
- 2 The application by the Tenants stated the Tenants considered that the Landlord had failed to comply with his duty to ensure that the house meets the Repairing Standard and the Tenants brought forward the following alleged breaches:-
 - (a) The rear bedroom of the property suffers from dampness and some mould growth on the external wall.
 - (b) Smoke alarms need to be fitted within the property.
 - (c) The gutters at the front of the property are in a poor state of repair and require replacement.
 - (d) The bathroom wash hand basin is cracked and requires repair and/or replacement.

- 3 The Private Rented Housing Committee served a Notice of Referral dated 21st July 2011 under the terms of Schedule 2, Paragraph 1 of the Act on both the Landlord and the Tenants.
- 4 Following service of the Notice of Referral the Landlord's agents emailed the offices of the Private Rented Housing Panel dated 23rd July 2011. At that time the Landlord indicated that certain works were "in hand".
- 5 Both the Landlord and the Tenants were advised that the Committee intended to inspect the property on the morning of 22nd September 2011 and to thereafter hold a hearing as to the merits of the application on the same date.
- 6 The Committee proceeded with the inspection and the hearing on 22nd September 2011. At both the inspection and the hearing both Tenants were present. The Landlord was represented at the inspection and the hearing, which was held within the property at 83 Calderwood Road, Rutherglen, by Mr Bill Carmichael, a representative of the Landlord's agents, Stonelaw Properties.

Findings of Fact

- 7 Having inspected the property and taken account of oral evidence from both Tenants and the Landlord's agent and thereafter being guided by the Committee's professional surveyor member, the Committee found the following facts to be established:-
 - (a) Whilst there was evidence of some dampness in the corner of the rear bedroom of the property the Committee's surveyor member was of the view that this related to condensation issues arising from within the property rather than any particular building defect. The Landlord's agent indicated the property had been inspected by a company experienced in dealing with dampness issues and that they were also of the view that there is no defect or repair issue connected with the property.
 - (b) On the date of the hearing and of the inspection the Committee noted that the gutters at the property were being repaired. The Tenants confirmed that they were satisfied with the repairs being carried out by the Landlord and accordingly they no longer wished to insist on this part of the application.
 - (c) The Tenants confirmed that the landlord had fitted a new wash hand basin in the bathroom and that accordingly they no longer wished to insist upon this particular part of the application.
 - (d) The Committee noted that battery smoke detectors had been fitted within the property. The Tenants advised that these had recently been fitted by the Fire Service. The Tenants confirmed that when they took occupancy of the property at the end of September 2009 there were no smoke alarms within the property. This was accepted by the Landlord's agent.

Decision

- 8 The Committee accordingly determined the Landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
- 9 The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1) of the Act. In making this order the Committee accepted that no order was appropriate in relation to the issues of dampness in the bedroom, the guttering at the property, and the wash hand basin in the bathroom. The Committee noted that the Landlord had attended to repairs to these issues and that in relation to the dampness issue in the bedroom the Committee did not accept that there was any failure of the Repairing Standard. The Committee did, however, make a Repairing Standard Enforcement Order in respect of the smoke alarm position within the property. The Committee are not satisfied that in

accordance with current regulations, the house has a satisfactory method for detecting fires and for giving warnings in the event of fire or suspected fire. In accordance with the statutory guidance on the Repairing Standard, issued in accordance with the Housing (Scotland) Act 2006, any smoke alarm installed in the property after 3rd September 2007 must be mains powered. In addition there should normally be at least one smoke alarm in each floor of the property, and where there are multiple alarms they should be interlinked. The Committee noted that the battery smoke alarms within the property had been installed by the Fire Service after 3rd September 2007. Accordingly there is a requirement that the smoke alarms within the property should be mains powered and, as the property has more than one floor, there should be at least one alarm on each floor and they should be interlinked.

10 The decision of the Committee was unanimous.

Right of Appeal

11 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

12 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.

A Cowan

Signed
Chairperson

Date

28 / 9 / 11

C A Millar

Witness

CAROL ANNE MILLAR

Full Name

7 WEST GEORGE ST.

Address

GLASGOW G12 1BA