



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

Reference number:- PRHP/RP/14/0244

Re: Property at the Upper Flatted Dwellinghouse situated at 760 Mosspark Drive, Glasgow G52 3AU being the subjects registered in the Land Register of Scotland under Title Number GLA9032.

The Parties:-

Ms Ruth Howie, residing at 760 Mosspark Drive, Glasgow G52 3AU ("the Tenant")

and

Wearwell Properties Limited, being a Company registered under the Companies Acts (Registered No. SC254022) and having their Registered Office at 50 Battlefield Road, Battlefield, Glasgow G42 9QF ("the Landlord")

Decision

The Private Rented Housing Committee ("the Committee"), having made such enquiries as it saw fit for the purpose 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, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Committee consisted of:-

Mr Andrew Cowan	-	Chairperson
Ms Carol Jones	-	Surveyor member
Mrs Mary Lyden	-	Housing member

Background

1. By application dated 10 October 2014, the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlord has failed to comply with the duties imposed by Section 14 (1)(b) of the Act.

2. The application by the Tenant stated that the Tenant considered that the Landlord has failed to comply with the duty to ensure that the property meets the repairing standard. The Tenant brought forward the following alleged breaches:-

- (a) that there is no working fire alarm within the property;
- (b) that there are leaking radiators which cause flooding within the property;
- (c) the kitchen cupboards collapse when trying to access them;
- (d) the hatch to the loft is uncovered and causes a severe draught together with consequential difficulty in heating the house;
- (e) the "joinings" between the doors cause a tripping hazard; and
- (f) there is no lighting on the stairway into the property (and there is a consequential danger of falling).

3. By letter dated 11 November 2014 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22(1) of the Act to a Private Rented Housing Committee.

4. On 17 March 2015, the Committee wrote to the Landlord and the Tenant to advise that the Committee intended to inspect the property on 7 April 2015 at 10am. That letter further confirmed that a hearing had been arranged in relation to the application, which hearing would be held at the offices of the Private Rented Housing Panel at Europa House, 450 Argyle Street, Glasgow, G1 8LH. The parties were advised that the hearing would be held at 11am on 7 April 2015.

The Inspection

5. On 7 April 2015, the Committee attended the property for the purposes of the inspection of the property. The Tenant was present at the inspection. The Landlord was not present and was not represented.

6. At the inspection on 7 April 2015, the Committee noted the following points from their own observation
 - (a) The property has a battery operated smoke detector in the hallway of the property. The Tenant advised that this had been in the property from the start of her let, but that it did not have a battery when she took entry. The Tenant had now supplied the battery and consequently that battery fire alarm is now operational;

 - (b) The Tenant advised that the radiator in the front bedroom and the radiator in the bathroom of the property both leak when they are turned on. Both radiators have been turned off by the Tenant to avoid further leaking and flooding into the property. The Committee were not able to test the radiators for this leakage;

 - (c) The three drawer kitchen unit, located adjacent to the cooker in the kitchen, had collapsed and was not capable of normal use;

 - (d) There was no cover to the hatch into the loft area above the property. The Tenant advised that this had previously been boarded up when she first took up occupancy of the property. When a new boiler was installed in the property, the hatch cover had been opened up (for access purposes) and since that time the hatchway has remained open and no further hatch cover had been supplied by the Landlord;

- (e) The Committee noted that there are no threshold strips throughout the property at the points where different floor coverings meet at internal doorways at the property. Some rooms are carpeted while others have vinyl or laminate flooring. Where the different floor coverings meet, there is a difference in height and/or a gap. That difference in height and or gap can cause a tripping hazard;
- (f) The Committee noted that there was a four bulb light fitting on the stairway of the property. At the time of the inspection only one bulb was operational. The Tenant accepted it was her responsibility to change the bulbs for that light fitting;

The Hearing

- 7. Neither the Tenant nor the Landlord attended the hearing which had been fixed for 11am on 7 April 2015. In accordance with Rule 19 of the Private Rented Housing Panel (Applications and Determinations) (Scotland) Regulations 2007, if a party does not appear at a hearing the Committee, on being satisfied that the requirements of regulation 19 regarding the giving of notice of the hearing have been duly complied with, may proceed to deal with the reference upon the representations of any party present and all the material before it. In this case the Committee were satisfied that the requirements of Regulation 19 regarding the giving of notice of the hearing had been duly complied with and the Committee proceeded to deal with the reference based upon their own observations from the inspection and the material contained within the Tenant's application.

Decision

- 8. Based on their own observations from their inspection of the property, the Committee determined that the Landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Act.
- 9. In particular the Committee decided that:-
 - (a) the property does not meet the repairing standard as the house does not have satisfactory provision for detecting fires and for giving warning in the event of

suspected fire all as required by Section 13(1)(f) of the Act. In reaching their decision in this respect the Committee had regard to current Building Regulations and the guidance issued by the Scottish Ministers. The current guidance issued by the Scottish Ministers makes reference to building standards which were amended from 1 October 2010 and which state there should be at least:-

- (i) one functioning smoking alarm in the room which is frequently used by the occupants for general daytime living purposes;
- (ii) one functioning smoke alarm in every circulation space, such as hallways and landings;
- (iii) one heat alarm in every kitchen; and
- (iv) all alarms should be interlinked.

The Committee noted that there was a battery operated smoke alarm which was located within the property, but this does not comply with current Building Standards Regulations and/or the most recent guidance from the Scottish Government on satisfactory prevention, detection and warning of fire.

- (b) In the absence of any evidence led by the Landlords to the contrary the Committee accepted the complaint made by the Tenant in her application that radiators in the property were leaking. In particular the Committee were satisfied that the radiator in the front bedroom and the bathroom of the property (as installations in the house for space heating) were not in a reasonable state of repair and in proper working order all as required by section 13(1)(c) of the Act.
- (c) The Committee, from their own observations, noted that the three drawer base kitchen unit, located within the kitchen of the property (being a fitting supplied by the Landlords under the tenancy), was not in a reasonable state of repair and in proper working order. The drawers in the unit had collapsed and are not capable of normal

use. In the circumstances, the Committee determined that the kitchen unit drawers (as a fitting provided by the Landlords under the tenancy) were not in a reasonable state of repair or in proper working order as required by Section 13(1)(d) of the Act.

- (d) The Committee noted that there is no cover to the hatch which led into the loft above the property. The Committee, from their own knowledge and experience accepted that, in the circumstances, it is highly likely that the property would suffer from draughts coming in from the loft space, and there would be a consequential loss of heat from the property. The Committee were satisfied that, in the circumstances, the property did not meet the repairing standard as it is not (i) wind and watertight as required by Section 13(1)(a); and, (ii) the hatch cover (being a fitting provided by the Landlords under the tenancy) is not in a reasonable state of repair or in proper working order as required by Section 13(1)(d) of the Act.

- (e) The Committee noted that there were significant differences in height between different floor coverings within the property. Some rooms had carpeting while others had wood laminate or vinyl flooring. Where these different floor coverings met there was significant difference in height and/or a gap and the Committee noted from their own observations that these differences in height and/or gaps in floor covering could cause a significant tripping hazard.

The floor coverings within the property (as furnishings provided by the Landlord under the tenancy), were not considered by the Committee as being capable of being used safely for the purposes for which they are designed as required by Section 13(1)(e) of the Act.

- (f) The Committee noted that there was a light on the internal stairway leading to the property. Only one bulb within that light fitting was working. The Committee was not in a position to determine that there was any failure of the repairing standard in this

respect as the Tenant accepted it was her responsibility to replace any missing bulbs from that light fitting.

10. Having determined that the property does not meet the repairing standard in respect of the matters referred to in paragraph 9 above. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1) of the Act.

13. The Committee requires the Landlords to carry out the following works:-

- (a) install such satisfactory provision for detecting fires or for giving warning in the event of fire or suspected fire as are required in terms of current Scottish Government guidance and current building regulations;
- (b) such works as are necessary to the radiators in the bedroom and the bathroom of the property so that they no longer leak and so that they are in a reasonable state of repair and in proper working order;
- (c) such works as are necessary to repair or replace the three drawer kitchen unit so that it is capable of being used in a safe manner and so that it is in a reasonable state of repair and in proper working order;
- (d) provide a suitable hatchway cover for the hatch into the loft space above the property so that the property is wind and watertight and so that the hatch cover is in a reasonable state of repair and proper working order.
- (e) such works as are necessary within the property to ensure that the floor coverings within the property are safe and do not present a trip hazard. In particular, the Landlords are required to carry out such works as are necessary to ensure that the floor coverings within the property are capable of being used safely and for the purposes for which they are designed.

14. The Committee determined that it is reasonable to allow a period of 6 weeks from the date of the RSEO for the Landlords to carry out the works.
15. The decision of the Committee was unanimous


Right of Appeal

16. 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

17. 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 
Andrew Cowan, Chairperson

..... Date 10/4/15

L McManus

..... Witness
Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA



Repairing Standard Enforcement Order Ordered by the Private Rented Housing Committee

Reference number:- PRHP/RP/14/0244

Re: Property at the Upper Flatted Dwellinghouse situated at 760 Mosspark Drive, Glasgow G52 3AU being the subjects registered in the Land Register of Scotland under Title Number GLA9032.

The Parties:-

Ms Ruth Howie, residing at 760 Mosspark Drive, Glasgow G52 3AU ("the Tenant")

and

Wearwell Properties Limited, being a Company registered under the Companies Acts (Registered No. SC254022) and having their Registered Office at 50 Battlefield Road, Battlefield, Glasgow G42 9QF ("the Landlord")

NOTICE TO

Wearwell Properties Limited, 50 Battlefield Road, Battlefield, Glasgow G42 9QF
("the Landlord")

Whereas in terms of their decision dated 10 April 2015, 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 ("The Act") and in particular that the landlord has failed to ensure that:

- (a) there is a working fire alarm within the property;
- (b) the radiators in the bedroom and bathroom are in a reasonable state of repair and in proper working order;
- (c) the kitchen units are in a reasonable state of repair and in proper working order;
- (d) a suitable hatchway cover is provided for the hatch into the loft space above the property so that the property is wind and watertight and that the hatch cover is in a reasonable state of repair and in proper working order.
- (e) the floor coverings meet the repairing standard.

The Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned 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 Private Rented Housing Committee requires the landlord to carry out such works as are necessary to ensure that:-

- (a) there is an acceptable provision for detecting fires and for giving warning in the event of fire or suspected fire as are required in terms of the Scottish Government guidance in satisfactory provision for detection and warnings of fires and current Building regulations;

- (b) the radiators in the bedroom and the bathroom of the property no longer leak and that they are in a reasonable state of repair and in proper working order;
- (c) the three drawer base kitchen unit is repaired or replaced so that it is capable of being used in a safe manner and so that it is in a reasonable state of repair and in proper working order;
- (d) a suitable hatchway cover for the hatch into the loft space above the property is provided so that the property is wind and watertight and so that the hatch cover is in a reasonable state of repair and proper working order.
- (e) the floor coverings within the property are safe and do not present a trip hazard. In particular, the Landlords are required to carry out such works as are necessary to ensure that the floor coverings within the property are capable of being used safely and for the purposes for which they are designed.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 6 weeks from the date of service of this Notice.

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this page and the preceding page are executed by Andrew Cowan, chairperson of the Private Rented Housing Committee at Glasgow on 10 April 2015 before this witness:-

A Cowan

Signed
Andrew Cowan, Chairperson

Date 10/4/15

L McManus

.....Witness
Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA