

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Case Reference Number: PRHP/RP/15/0010

Re: 0/2, 27 Plean Street, Yoker, Glasgow G14 0YH (“the property”)

Land Register Title No: GLA28294

The Parties:-

Miss Georgina Canning, formerly residing at the property (“the tenant”)

Mr John Moore and Mrs Margaret Moore, 13 Crichton Avenue, Chester Le Street, Durham DH3 3ND (“the landlords”)

The committee: – Sarah O’Neill (Chairperson); Kingsley Bruce (Surveyor Member) and Christopher Harvey (Housing member)

NOTICE TO: Mr John Moore and Mrs Margaret Moore (“the landlords”)

Whereas in terms of its decision dated 1 July 2015, the Private Rented Housing Committee determined that the landlords had failed to comply with the duty imposed by Section 14 (1) (b) of the Act, and in particular that the landlords have failed to ensure that the house meets the repairing standard in that:

- the installations in the property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order

The Private Rented Housing Committee now requires the landlords to carry out such work as is necessary for the purpose of ensuring that the property meets the repairing standard and that any damage caused by the carrying out of any work in terms of this order is made good before the date specified in this order.

In particular the Private Rented Housing Committee requires the landlords to:

1. Engage a suitably qualified, and Gas Safe registered, heating engineer to:
 - i. repair or replace the boiler as necessary to ensure that it is in a reasonable state of repair and in proper working order.
 - ii. ensure that the remainder of the heating installation is in a reasonable state of repair and in proper working order.
2. Repair or replace the electric fire in the living room as necessary in order to ensure that it is in a reasonable state of repair and in proper working order.
3. On completion of all the above works, ensure that all affected finishes and decoration are restored to an acceptable standard.

The Private Rented Housing Committee orders that the works specified in this order must be carried out and completed within the period of **four weeks** from the date of service of this notice.

Rights of Appeal

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.

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. 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.

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 typewritten on this and the preceding page are signed by Sarah Frances O'Neill, solicitor, Chairperson of the Private Rented Housing Committee, at Glasgow on the 1st day of July, Two Thousand and Fifteen before this witness -

L. MCGUIRE

S. O'NEILL

_____ witness _____

_____ chairperson

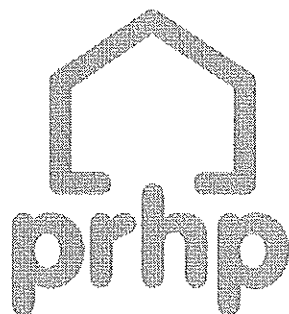
Luke McGuire name in full

450 Algate Street Address.

Glasgow

G2 8LH

Panel Clerk Occupation



Determination by Private Rented Housing Committee

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the committee")

Under Section 24(1) of the Housing (Scotland) Act 2006 ("the Act")

Case Reference Number: PRHP/RP/15/0010

Re: 0/2, 27 Pleas Street, Yoker, Glasgow G14 0YH ("the property")

Land Register Title No: GLA28294

The Parties:-

Miss Georgina Canning, formerly residing at the property ("the tenant")

Mr John Moore and Mrs Margaret Moore, 13 Crichton Avenue, Chester Le Street, Durham DH3 3ND ("the landlords")

The committee: – Sarah O'Neill (Chairperson); Kingsley Bruce (Surveyor Member) and Christopher Harvey (Housing member)

Decision

The committee, having made such enquiries as it saw fit for the purposes of determining whether the landlords have complied with the duty imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, and taking account of all the available evidence, determines that the landlords have failed to comply with the duty imposed by Section 14 (1) (b) of the Act. The committee therefore issues a Repairing Standard Enforcement Order. The committee's decision is unanimous.

Background

1. By application dated 8 January 2015, the tenant applied to the Private Rented Housing Panel ("the panel") for a determination that the landlords had failed to comply with their duties under Section 14(1) of the Act.
2. In her application, the tenant stated that she believed the landlords had failed to comply with their duty to ensure that the property met the repairing standard as set out in sections 13(1) (a) (b) (c) (d) (e) and (f) of the Act. Her application stated that the landlords had failed to ensure that:
 - the property is wind and watertight and in all other respects reasonably fit for human habitation
 - the structure and exterior of the house (including drains, gutters and external pipes) is in a reasonable state of repair and in proper working order
 - the installations in the property 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
 - any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order
 - any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed
 - the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire
3. The tenant made the following complaints in her application:
 1. One set of light switches in the hall is faulty and she has been advised by an electrician not to use these.
 2. The fuse box is not up to date.
 3. The temperature gauge on the gas boiler keeps dropping.
 4. The house is cold and she needs to have the heating on for about 10 hours a day.
 5. The electric fire does not work.
 6. There are no smoke detectors in the property.
 7. The carbon dioxide detector does not work.

She also complained that a sink was leaking underneath, despite having been sealed. The committee was, however, unable to consider this particular complaint, as the tenant had provided no evidence that she had notified the landlord about this.

4. On 26 February, the committee issued a direction requiring the landlords to provide an up to date electrical inspection report and an up to date gas safety certificate by 24 March 2015.
5. On the same date, the President of the panel issued a minute of decision stating that she considered that in terms of section 23 (3) of the Act there was no longer a reasonable prospect of the dispute being resolved between the parties at a later date; that she had considered the application paperwork submitted by the tenant, comprising documents received in the period of 14 January to 23 January 2015; and intimating her decision to refer the application to a panel committee for determination.
6. An email from 1-2-Let, the landlords' agent, was received by the panel on 16 March, attaching a gas safety certificate in respect of the property. In the same email, the agent advised that the tenant had left the property and had left no forwarding address. A further email was received from the landlords' agent on 27 March, attaching an electrical installation condition report.
7. On 23 March, the committee issued a minute of continuation to a determination under Schedule 2 Para 7(3) of the Act. This stated that having received confirmation from the landlords that the tenancy had been terminated, the tenant was to be treated as having withdrawn her application in terms of Schedule 2 paragraph 7 (1) of the Act. It then stated that the committee considered that the application should be determined on safety grounds, due to the nature of the alleged repairs and the potential effects on any future tenant/occupiers if those allegations were substantiated.
8. The President of the panel wrote to the parties on 29 April, notifying them under and in terms of the 2006 Act of her decision to refer the application under Section 22(1) of the Act to a private rented housing committee and that an inspection and a hearing would take place on 18 June 2015. Written representations were requested by 21 May 2015.
9. Written representations were received from the landlord's agent by way of a letter to the panel dated 12 May 2015. This letter stated that the following works had been carried out:
 - Hard wired smoke alarms have been fitted in the hall and the lounge, and a heat sensor fitted in the kitchen.
 - The carbon monoxide detector has been checked and found to be working correctly.
 - The electric fire in the lounge has been checked and found to be working correctly.

- The hall lights are all working correctly. The light switch in the hall has been checked and a loose wire repaired. This and all other switches are working correctly.
- The gas engineer advises the radiators are working correctly and heat the property accordingly.
- The gas engineer attended but could find no issue with the boiler.

A copy invoice in respect of the electrical work was attached to the letter.

The inspection

10. The committee inspected the property on the morning of 18 June 2015. The landlord's agent, Ms. Lesley McLaughlin, Office Manager at 1-2-Let, was present at the property during the inspection.

The property

11. The property is a ground floor flat situated within a four storey tenement block, which is estimated to be in the region of 100 years old. The property comprises all on one level: hallway, living room, one bedroom, kitchen and bathroom.

The hearing

12. Following the inspection, the committee held a hearing at the offices of the Private Rented Housing Panel, Europa Building, 450 Argyle Street, Glasgow. Neither the tenant nor the landlord were present or represented at the hearing. It was clear from the case file that both the landlords and their agent had been given adequate and timeous notification of the time, date and place of the hearing, and the chairperson reminded Ms McLaughlin of these details during the inspection. The committee therefore made its decision on the basis of its inspection and all the written evidence before it.

The evidence

13. The evidence before the committee consisted of:
 - The application form completed by the tenant.
 - Registers Direct copy of Land Register title GLA28294.
 - Copy of form AT5 relative to short assured tenancy agreement between the landlords and the tenant, and signed by the landlord's agent on 6 March 2014.
 - Letter of notification (undated) from the tenant to the landlords' agent, received by the panel on 23 January 2015, setting out the repairs

alleged to be required, together with certificate of posting dated 13 January and signed delivery receipt dated 14 January.

- Gas safety inspection certificate in respect of the property dated 9 March 2015,
- Copy electrical installation condition report in respect of the property dated 17 March 2015.
- Minor electrical installation works certificate in respect of mains bonding to gas and water, dated 19 March 2015 .
- Letter from the landlord's agent to the panel dated 12 May 2015.
- Copy invoice from David Fitch Electrical Services in respect of various works at the property dated 12 May 2015.
- The committee's inspection of the property.

Summary of the issues

14. The issue to be determined was whether the property meets the repairing standard as set out in Section 13 of the Act, and whether the landlords have complied with the duty imposed on them by section 14 (1) (b).

Findings of fact

15. The committee made the following findings in fact:

- The tenant entered into a tenancy agreement with the landlords to rent the property (no short assured tenancy agreement was provided by the tenant, but the form AT5 mentioned above was dated 6 March 2014). She vacated the property on 7 March 2015.
- The property is owned by John Moore and Margaret Moore.
- The property is managed on behalf of the landlords by 1-2-Let, letting agents.
- A gas safety inspection certificate was issued in respect of the property by a Gas Safe registered engineer on 9 March 2015. This showed that the property passed the inspection in most categories, but failed in respect of the 'protective equipotential bonding', which was not satisfactory.
- An electrical installation condition report was issued in respect of the property by an NICEIC approved contractor on 17 March 2015. This assessed the overall condition of the installation as unsatisfactory, and identified a lack of earth bonding to the gas main pipe and water bonding as two items which required urgent remedial action. Other items identified as requiring attention, including a lack of RCD protection in all circuits, were categorised as recommended for improvement.

- A minor electrical installation works certificate in respect of the property was issued by David Fitch Electrical Services on 19 March 2015, in respect of the installation of mains bonding to gas and water.
- An invoice dated 12 May 2015 was issued by David Fitch Electrical Services to the landlords' agent in respect of the following works at the property:
 - Supply and fitting of two hard wired smoke alarms and one heat alarm
 - Repair of light switch in the hall
 - Checking all lights and confirming they are operating properly
 - Checking fire in lounge and confirming it is operating correctly
 - Carbon monoxide monitor checked and operating correctly
- The committee in its inspection carefully checked the items which were the subject of the complaint. The committee observed the following:
 - i. There were two sets of light switches in the hall. The double socket close to the front door operates the ceiling light and appeared to be operating correctly. There was another single switch which appeared to be connected to the two wall lights towards the rear of the hall. The committee was unable to ascertain whether these lights were operating correctly, as there were no light bulbs installed in either of these.
 - ii. While the fuse box in the hallway was of an older design, the committee did not observe any defects with this.
 - iii. The earthing and bonding to the gas main had been installed. The committee was unable to observe the bonding to the mains water supply, but considered it likely that this was under the kitchen floor.
 - iv. The committee was unable to test the boiler and central heating, as the boiler was not operating at all at the time of its visit.
 - v. The committee tested the electric fire in the living room, and found that while it lit up, the elements did not heat up at all, even after several minutes. The fire was not therefore operating correctly at the time of the inspection.
 - vi. Two hard wired smoke alarms had been installed in the hall and the living room and a heat sensor had been installed in the kitchen. The committee tested the carbon monoxide detector in the kitchen and found it to be operating correctly.

Reasons for decision

16. The complaints before the committee as set out in the tenant's application and the committee's determinations in relation to each of these are set out below.

1. *One set of light switches in the hall is faulty*

The committee determined that the double light switch in the hall which operates the ceiling light is working correctly. It was unable to ascertain whether the remaining light switch in the hall was operating correctly and in good working order, as there were no light bulbs installed in the two wall lights. It was not clear from the tenant's initial application whether her complaint related to the central ceiling light in the hall and/or to the wall lights in the hall. The invoice from David Fitch Electrical Services dated 12 May states that the light switch in the hall has been repaired and that all lights have been checked and are operating correctly, but it is not entirely clear whether this includes the wall lights.

As there were no bulbs in these lights, the committee was unable to determine whether or not they are in good working order. On the basis of its inspection and the other available evidence, the committee determines that the light switches in the hall were in a reasonable state of repair and in proper working order at the time of its inspection.

2. *The fuse box is not up to date.*

On the basis of both its observations and the content of the electrical installation condition report, the committee determines that, while the electrical installation condition report identified this as a matter where improvement was recommended, it was in a reasonable state of repair and in proper working order.

3. *The temperature gauge on the gas boiler keeps dropping.*

4. *The house is cold and the tenant needs to have the heating on for about 10 hours a day.*

The committee was unable to test either the boiler or the central heating, as the boiler was not operating at all at the time of its inspection. Ms McLaughlin advised the committee at the inspection that the boiler had been operating correctly, but that the current tenant had advised that it had stopped working the previous day. She said that the gas engineer was due to attend later that day. The committee determines that at the time of its inspection the boiler

and central heating system were not in a reasonable state of repair and in proper working order.

5. The electric fire does not work.

Ms McLaughlin told the committee that the fire had been tested and had been working, and the invoice from David Fitch Electrical Services dated 12 May 2015 stated that the fire had been checked and was operating correctly. A short time after the inspection had taken place, a telephone call from Ms McLaughlin was received at the panel's offices, during which she advised that the fire was now working, and requested that the committee return to inspect this again. The committee had, however, completed its inspection and was on its way to the hearing at that time.

Ms McLaughlin was reminded that she could attend the hearing at 11am, should she wish to lead any evidence about the fire. She did not attend the hearing, however. The committee can only make its determination on the basis of the situation at the time of its inspection, and it therefore determines that at the time of the inspection the electric fire was not in a reasonable state of repair and in proper working order.

6. There are no smoke detectors in the property.

At the time of the committee's inspection, two hard wired smoke detectors and a heat sensor had been installed in the property, in compliance with current Scottish Government statutory guidance. The committee therefore determines that the property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

7. The carbon dioxide detector does not work.

When tested by the committee at its inspection, the carbon monoxide detector appeared to be operating correctly. The committee therefore determines that at the time of the inspection the detector was in a reasonable state of repair and in proper working order.

Summary of decision

17. The committee determines that the landlords have failed to comply with the duty imposed by Section 14 (1) (b) of the Act, and in particular that the landlords have failed to ensure that the house meets the repairing standard in that:

- the installations in the property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order.

18. The committee therefore makes a Repairing Standard Enforcement Order as required by section 24 (2) of the Act.

Rights of Appeal

19. 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.

20. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the panel or the committee which made the decision.

Effects of Section 63 of the 2006 Act

21. 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. 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.

S. O'NEILL

Signed...

.....Date..... 1/7/15.....

Sarah O'Neill, Chairperson