



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Ref prhp/rp/15/0133

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 by Ian Wesley Stead residing at 185 Dundyvan Road, Coatbridge ML5 4AL ("the Tenant") against Mario Zambonini and Lia Zambonini ("the Landlords") residing at 110, Crawford Street, Motherwell, ML1 3BN

Re: 185 Dundyvan Road, Coatbridge ML5 4AL ("the Property") registered in the Land Register for Scotland under Title Number LAN24453

Committee Members

Karen Moore (Chairperson)

Carol Jones (Surveyor Member)

NOTICE TO THE LANDLORD

Mario Zambonini and Lia Zambonini ("the Landlords") residing at 110, Crawford Street, Motherwell, ML1 3BN

Whereas in terms of their decision dated [] August 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 Housing (Scotland) Act 2006 and in particular that the Landlord had failed to ensure that the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, the Private Rented Housing Committee now requires the Landlord to carry out the following works (or other such works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard and that any damage caused by carrying out of the works in terms of the Order is made good.):-

The Landlord must no later than 9 October 2015:-

1. Install smoke alarms and fire detectors to meet the standard as set by building regulations and in accordance with the recommendations contained in BS5839 Part 6 and the revised Domestic Technical Handbook guidance on the requirements for smoke

alarms, details of which are available on the PRHP website at www.prhpscotland.gov.uk; and

2. Instruct an Electrical Installation Inspection by a suitably qualified and registered electrician and lodge with the Private Rented Housing Committee the Electrical Installation Condition Report (EICR) and in service inspection and test report on all electrical appliances and equipment to be carried out as part of that Inspection. In the event that these reports identify that repair or replacement works are required to meet current standards, the Landlords must carry out those repair or replacement works to ensure that the electrical installation and all appliances and electrical equipment in the Property meet the current standards.

A Landlord or a Tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within twenty one 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.

In Witness Whereof these presents printed on this and the preceding page are signed by Karen Moore, Chairperson, at Glasgow, on 10 August 2015 before this witness, Norman William Moore, solicitor, Cumbernauld

W MOORE

K MOORE

Witness



Determination by Private Rented Housing Committee
Statement of Decision of the Private Rented Housing Committee issued under
Section 24(1) of the Housing (Scotland) Act 2006

Ref prhp/rp/15/0133

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 by Ian Wesley Stead residing at 185 Dundyan Road, Coatbridge ML5 4AL ("the Tenant") against Mario Zambonini and Lia Zambonini ("the Landlords") residing at 110, Crawford Street, Motherwell, ML1 3BN

Re: 185 Dundyan Road, Coatbridge ML5 4AL ("the Property")

Committee Members

Karen Moore (Chairperson)

Carol Jones (Surveyor Member)

1. By application dated 10 April 2015 ("the Application"), the Tenant applied to the Private Rented Housing Panel for a determination that the Landlords had failed to comply with the duty imposed on them by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (d) and 13 (1) (f) of the Act.
2. The president of the Private Rented Housing Panel, having considered the application, intimated to the parties on 21 May 2015, a decision under Section 23 (1) of the Act to refer the Application to a Private Rented Housing Committee, and, in terms of Schedule 2, Paragraph 1 of the Act, by notice of referral dated 1 June 2015 fixed an Inspection and Hearing for 31 July 2015 at 10.00 a.m. and 11.30 a.m., respectively.
3. The Committee, in preparation for the Inspection and Hearing, made the following Directions :-

Direction 1

Mario Zambonini, being one of the Landlords named in the Application, must write to the Committee to confirm that (i) he is Mario Cristina Zambonini, the registered proprietor of the Property, (ii) he granted authority to Lia Zambonini, being the other Landlord named in the Application, to act as his joint landlord and (iii) he signed the Lease between the Landlords and the Tenant on behalf of the Landlords.

Reason for Direction 1

It is necessary that the Committee are satisfied as to the identity of the Landlords.

Direction 2

The Landlords must submit to the Committee a copy of the full written Lease between the Landlords and the Tenant including the Inventory annexed to it.

Reason for Direction 2

It is necessary that the Committee are satisfied as to the extent of the Lease.

Direction 3

The Landlords must submit to the Committee the most recent gas safety record and the most recent electrical installation condition report and in service inspection and test report on all electrical appliances and equipment for the Property.

Reason for Direction 3

It would be helpful for the Committee to have sight of these documents.

Direction 4

The Tenant must write to the Committee to provide an explanation as to why the washing machine and the cooker in the Property require to be replaced.

Reason for Direction 4

It is necessary for the Committee to be aware of the detail of the Tenant's complaints in respect of these appliances.

4. The Tenant complied with Direction 4. The Landlords complied with Direction 3 in part and submitted a gas safety certificate. The Landlords did not comply with Directions 1 and 2.

Inspection and Hearing

5. An Inspection took place at the Property on 31 July at 10.00 am. The Tenant and Mr. Zambonini of the Landlords were present. The Committee inspected the hall, the kitchen, and the room adjacent to the kitchen which is currently being used as a bed - sitting room. The Committee took digital photographs at the Inspection which photographs form the Schedule annexed and executed as relative hereto.

6. Following the Inspection, a Hearing was held at the Europa Building, 450 Argyle Street, Glasgow G2 8LH on 31 July 2015 at 11.30 a.m. The Tenant was not present. Mr. Zambonini was present.
7. At the Hearing, Mr. Zambonini advised the Committee that, in his opinion, the matters complained of by the Tenant had arisen as a result of other matters between him and the Tenant. Mr. Zambonini further advised the Committee that he had undertaken the works necessary to address the complaints raised in the Application.
8. With regard to the cooker and washing machine, Mr. Zambonini advised the Committee that these had been replaced by him recently. With regard to the smoke alarms, Mr. Zambonini advised the Committee that he had installed one hard wired smoke alarm in the hallway and had understood that this was sufficient to comply with the current relevant regulations. Mr. Zambonini stated that he had been guided by the electrician who installed the smoke alarm and the electrical consumer unit referred to in paragraph 9 in respect of the number of smoke alarms required. With regard to the carbon monoxide detector, Mr. Zambonini advised the Committee that, although this was not required by the current relevant regulations, he had installed one hard wired detector in the room adjacent to the kitchen.
9. Mr. Zambonini further advised the Committee that the electrical consumer unit had recently been renewed and that the Property had recently been re-roofed.
10. In response to the Committee's questions regarding the Direction referred to in paragraph 3, Mr. Zambonini confirmed that his name is Mario Zambonini, that he owns the Property jointly with his wife, Lia Cristina Zambonini, and that they are joint Landlords. With regard to the electrical safety certificate, Mr. Zambonini advised the Committee that he understood that there was no requirement on him to obtain a certificate and so he had not submitted one to the Committee. He further advised that he had not had the electrical testing carried out as required by the Direction.

Summary of the Issues

11. The issues to be determined by the Committee are whether or not the Property meets the Repairing Standard in respect of Sections 13 (1) (d) and 13 (1) (f) of the Act at the date of the Inspection and Hearing. In particular that any fixtures, fittings and appliances provided under the tenancy are in reasonable repair and proper working

order and that the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Findings of Fact

12. Mario Zambonini and Lia Cristina Zambonini, the owners of the Property under title number LAN24453, are the landlords and Ian Wesley Stead is the tenant of the Property in terms of a tenancy agreement between the parties dated 27 July 2011.
13. The Property is a ground floor flat situated in the middle of a terrace of 2 storey flats and comprises one bedroom, one public room, kitchen and bathroom. The Property is located around 1 mile south-west of Coatbridge town centre and is of traditional red sandstone construction, estimated to be in the region of around 100 years old or thereby. The roof is pitched and finished with tiles. A external photograph of the Property is shown on the attached Schedule.
14. From the Inspection, the Committee found the following:-
 - I. The cooker appears to be in working order (photograph shown on attached Schedule);
 - II. The washing machine appears to be in working order (photograph shown on attached Schedule);
 - III. There is a hard wired smoke alarm in the hall (photograph shown on attached Schedule);
 - IV. There is a hard wired carbon monoxide in the room adjacent to the kitchen (photograph shown on attached Schedule) and
 - V. There is no heat detector in the kitchen.
15. From the Tenant's statements at the Inspection, the Committee noted that the Tenant accepted that the cooker and washing machine had been replaced and are in working order and that a smoke alarm and a carbon monoxide detector had been installed.
16. From Mr. Zambonini's written representations, the Committee found that Mr. Zambonini had remedied some of the matters complained of in the Application, namely, he had replaced the washing machine and the cooker and had installed a smoke alarm and a carbon monoxide detector. The Committee found that Mr. Zambonini was misguided in respect of the number of smoke and heat alarms required in the Property and should

have followed the guidance set out in the Revised Domestic Technical Handbook which states that there should be one functioning smoke alarm in every room which is frequently used by the occupants for general daytime living purposes, one functioning smoke alarm in every circulation space, one heat alarm in every kitchen and that all alarms should be interlinked. Accordingly, in addition to the smoke alarm installed in the hall, the Landlords should have installed a functioning smoke alarm in the room adjacent to the kitchen and a heat alarm in the kitchen. The Committee found that Mr. Zambonini had failed to appreciate that the Committee's Direction required him to obtain an electrical safety certificate and carry out electrical testing of the electrical installation and the electrical appliances in order to evidence compliance with the statutory duty as set out The Electrical Equipment (Safety) Regulations 1994. Those Regulations state that a landlord has a duty to ensure that electrical wiring and any electrical equipment provided for a tenant's use is safe. Although, the regulations do not specify that an electrical safety certificate should be obtained, the Scottish Government recommend that a portable electrical appliances safety test (PAT) and wiring check should be carried out by a qualified electrician to evidence compliance. As there is no electrical safety certificate, the Committee could not be certain that the installations in the Property for the supply of electricity are in reasonable repair and proper working order.

Decision of the Committee

17. The Committee's decision was based on the Application with supporting documents, the written representations of both parties, the Inspection and on the statements made to the Committee by the Mr. Zambonini at the Hearing.
18. In respect of Section 13 (1) (d) of the Act, the Committee found that at the date of the Inspection and Hearing the Landlords have not failed to comply with the duty imposed by Section 14 (1) (b) of the Act as the cooker and washing machine appear to be in reasonable working order.
19. In respect of Section 13 (1) (f), of the Act, the Committee found that at the date of the Inspection and Hearing the Landlords have failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reason being that the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
20. The decision is unanimous.

21. The Committee, having determined that the Landlords had failed to comply with the duties imposed by Section 14(1) (b) of the Act proceeded to make a Repairing Standard Enforcement Order as required by Section 24(2) of The Act.

Right of Appeal

22. 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.

23. Where such an appeal is made, the effect of the decision and of any repairing standards enforcement 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 any repairing standards enforcement order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

K MOORE

Karen Moore, Chairperson

10 August 2015
Date

10 August 2015
This is the Schedule referred to in the
foregoing Decision dated 10 August 2015

in respect of
185 Dundyvan Road
Coatbridge

K MOORE

Manager.



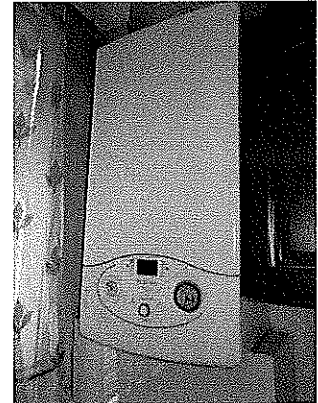
185 Dundyvan Road, Coatbridge - PRHP/
RP/15/0133 - Photographs taken on 31st
July 2015



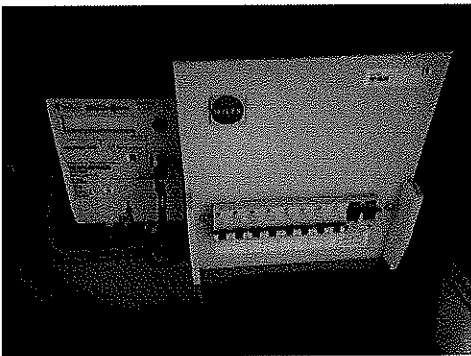
Kitchen - gas cooker



Kitchen - washing machine



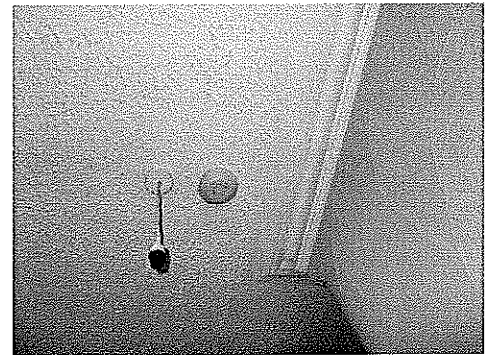
Kitchen - New Gas combi boiler



Hall - New consumer unit



Living Room - Carbon Monoxide alarm



Hall - hard wired smoke alarm