



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Case Reference Number: PRHP/RP/15/0291

Re: 35b Henderson Street, Bridge of Allan, Stirling FK9 4HN (“the property”)

Land Register Title No: STG15270

The Parties:-

Miss Suzanne Hall, formerly residing at the property (“the tenant”)

Mr Gurbhej Singh Bassi, 23 Craiglea, Causewayhead, Stirling FK9 5EE (“the landlord”)

The committee: – Sarah O’Neill (Chairperson); David Godfrey (Surveyor Member)

NOTICE TO: Mr Gurbhej Singh Bassi (“the landlord”)

Whereas in terms of its decision dated 20 January 2016, the Private Rented Housing Committee determined that the landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act, and in particular that the landlord has failed to ensure that the house meets the repairing standard in that: 1) the fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order and 2) 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 landlord 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 landlord to:

1. Repair or replace the two kitchen cabinets which currently have no doors to ensure that they are in a reasonable state of repair and in proper working order.
2. Repair or replace the front door handle to ensure that it is in a reasonable state of repair and in proper working order.
3. Repair or replace the electrical panel heater in the middle bedroom to ensure that it is in a reasonable state of repair and in proper working order.
4. Provide an Electrical Installation Condition Report from an NICEIC or SELECT registered electrical engineer containing no Category 1 or Category 2 observations to confirm that the work at paragraph 3 above has been carried out satisfactorily.
5. 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 28 days 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 twentieth day of January, Two Thousand and Sixteen before this witness -

Carl J Youd witness Sarah O'Neill chairperson

CARL JOHN YOUNG name in full

450 EUROPA HOUSE Address

ARGYLE STREET

GLASGOW G2 8UH

CASE WORKER 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/15/0291

Re: 35b Henderson Street, Bridge of Allan, Stirling FK9 4HN ("the property")

Land Register Title No: STG15270

The Parties:-

Miss Suzanne Hall, formerly residing at the property ("the tenant")

Mr Gurbhej Singh Bassi, 23 Craiglea, Causewayhead, Stirling FK9 5EE ("the landlord")

The committee: – Sarah O'Neill (Chairperson); David Godfrey (Surveyor Member)

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, and taking account of all the available evidence, determines that the landlord has failed to comply with the duty imposed on him 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 22 October 2015, the tenant applied to the Private Rented Housing Panel (“the panel”) for a determination that the landlord had failed to comply with his duties under Section 14(1) of the Act.
2. In her application, the tenant stated that she believed the landlord had failed to comply with his duty to ensure that the property met the repairing standard as set out in sections 13(1) (d) (e) and (f) of the Act. Her application stated that the landlord had failed to ensure that:
 - 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. There are no working smoke alarms fitted
 2. There are no working carbon monoxide alarms fitted.
 3. The carpets in the living room and hallway are stained/soiled and causing a very unpleasant odour.
 4. The shower head holder is broken.
 5. Two cabinet doors are missing from kitchen cabinets.
 6. The front door handle is not working properly, although the door lock still works.
 7. The storage heater in the bedroom is not working.
4. The tenant stated in her application that the following work required to be carried out at the property:
 - Carpets need replacing in the living room and hallway
 - Fire and carbon monoxide alarms need fitting
 - Storage heater in bedroom needs repaired/replaced
 - Shower head holder needs replaced
 - Two cabinet doors needed in kitchen
 - New front door handle needed

5. The tenant stated in her application form that the landlord was Mr Simon Bassi, and that she was unsure of his home address, but that he worked at the family restaurant, for which she provided an address. When asked by the panel to provide details of her tenancy agreement, she stated that she and her co-tenant, Mr Joseph Woods, had never been given a tenancy agreement to sign, but had paid a deposit and rent to Mr Simon Bassi in cash.
6. On 2 November 2015, 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 26 October 2015 to 27 October 2015; and intimating her decision to refer the application to a panel committee for determination.
7. The President of the panel wrote to the parties on 10 November 2015, 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 5 January 2016. Written representations were requested by 1 December 2015.
8. The notice of referral, inspection and hearing was sent to the registered landlord Mr Gurbhej Singh Bassi, the owner of the property, at 23 Craiglea, Stirling, which was the address held for him by the local authority landlord registration team. The notice was also sent to Mr Simon Bassi, the landlord's son, at 23 Henderson Street, Bridge of Allan, the address of the family's restaurant.
9. No written representations were received from the landlord by the 1 December deadline. The tenant responded saying that she did not wish to attend a hearing or to send written representations.
10. On 9 December, the tenant contacted the panel to advise that she intended to move out of the property on 14 December. On 16 December, the committee issued a minute of continuation to a determination under Schedule 2 Paragraph 7(3) of the Act. This stated that, having received confirmation from the tenant that the tenancy had been lawfully 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 public interest grounds, due to the nature of the alleged repairs and the potential effects on any future tenants/occupiers if those allegations were substantiated.

11. On the same date, the committee issued a direction to the landlord, requiring him to provide an up to date Electrical Installation Condition Report (EICR) in respect of the property by a suitably qualified and registered SELECT or NICEIC contractor, showing that all electrical installations, fixtures and fittings and all appliances have been checked and are working safely, by 31 December 2015. An EICR in respect of the property dated 21 December 2015, and a certificate of installation of a smoke/heat alarm system dated 18 December, were received by the panel on 23 December 2015.

The inspection

12. The committee inspected the property on the morning of 5 January 2016. No representative of the landlord was present at the property at 10am, the time which had been arranged for the inspection. Despite a number of attempts by the panel administration to contact Mr Simon Bassi, who had confirmed that he would be present to give access to the property, by telephone, he could not be contacted. The committee therefore went to the hearing venue for 11am, and received confirmation from the panel administration shortly afterwards that Mr Simon Bassi would be present to give access to the property at 11.45 am. The committee's inspection then took place. The weather conditions at the time of the inspection were dry and overcast. Mr Simon Bassi was present at the property during the inspection. Photographs were taken during the inspection and are attached as a schedule to this decision.

The property

13. The property is a first floor flat, within a three-storey block. The property comprises: living room, kitchen, bathroom and three bedrooms. One of the bedrooms was locked, and it appeared to the committee that it may currently be occupied. The property appeared to have been let on a furnished basis.

The hearing

14. The committee held a hearing at 11am at Volunteer Scotland, Jubilee House, Forthside Way, Stirling FK8 1QZ. Neither the landlord nor the tenant was present at the hearing. As explained above, the inspection was not carried out until after the hearing, due to a lack of access to the property. The committee chairperson advised Mr Bassi at the inspection that he had missed the hearing, which had been duly notified to the landlord in terms of regulation 19 of the Private Rented Housing Panel (Applications and Determinations) Scotland Regulations 2007. The committee chairperson advised him, however, that the committee would be prepared to hear evidence from him at some point later in the day, as it would be at the hearing venue in the afternoon in connection with another hearing. Mr Bassi indicated to the

committee that he would contact the panel administration, if he was able to attend at some point in the afternoon. No further contact was received from Mr Bassi.

The evidence

15. The evidence before the committee consisted of:

- The application form completed by the tenant.
- Registers Direct copy of Land Register title STG15270
- Copies of text messages between the parties dated 7, 8, 12 and 14 October 2015, regarding the carpets and the shower head holder.
- Email to the panel dated 27 October from the tenant in response to its letter of 26 October requesting details of the tenancy agreement.
- Letter of notification (undated) from the tenant to the landlord and Mr Simon Bassi, setting out the repairs alleged to be required, together with certificate of posting to the address at 23 Henderson Street, Bridge of Allan, dated 19 October 2015.
- EICR dated 18 December, received from the landlord on 23 December 2015.
- The committee's inspection of the property.

Summary of the issues

16. 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 landlord had complied with the duty imposed on him by section 14 (1) (b).

Findings of fact

17. The committee made the following findings in fact:

- The tenant entered into an oral tenancy agreement with the landlord to rent the property on or around 6 September 2015. The tenant stated in her email of 27 October 2015 that she had not been given a written tenancy agreement, but had paid a deposit for the property and had been making monthly payments of £300 for a double room and £150 for a single room at the landlord's restaurant. The committee is satisfied that there was a tenancy in place, and no representations have been received from the landlord to the contrary. The tenancy is a tenancy of a house let for human habitation, which does not fall within the exceptions set out in section 12 (1) of the Act. The provisions set out in Chapter 4 of the Act therefore apply.

- The property is owned by Mr Gurbhej Singh Bassi, who is the registered landlord for the property.
- An electrical installation condition report was issued in respect of the property by Albion Alarm and Electrical Services on 21 December 2015. This assessed the overall condition of the installation as good, but made the following observations and recommendations:
 - Category 1 (requires urgent attention) - top fuse box cover has no fixing screw, when off busbar exposed.
 - Category 2 (requires improvement)- WC light fitting in poor condition- old fuse boxes need removing- no grommet on bottom hole in top fusebox- shower has no rcd protection -heating board not marked and back board loose.
 - Category 3 (requires further investigation) – circuit 4 on top fusebox could not be found and no live tests carried out on storage heaters circuits
 - A certificate of design, installation and commissioning of a smoke/heat alarm system was issued in respect of the property by Albion Alarm and Electrical Services on 18 December 2015.
- The committee in its inspection carefully checked the items which were the subject of the complaint. The committee observed the following:
 - i. A hard wired smoke and heat alarm system had been installed in the hall, kitchen and living room. When tested by the committee, the alarms appeared to be working correctly.
 - ii. There was no carbon monoxide alarm within the property.
 - iii. The carpets in the living room and the hallway were heavily stained.
 - iv. The shower head holder had been fixed or replaced.
 - v. Doors were missing from two kitchen cabinets- one wall cabinet and one under the sink
 - vi. The front door handle was broken and was not operating/ closing properly.
 - vii. The electric panel heater in the middle bedroom did not appear to be working properly. At the time of the inspection, the panel heaters in all three bedrooms were switched on, but that bedroom was noticeably colder than the other two bedrooms.

Reasons for decision

18. 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. *There are no working smoke alarms fitted*

19. The smoke and heat alarm system installed in the hall, kitchen and living room, appear to be in compliance with current Scottish Government statutory guidance. When tested by the committee, the alarms appeared to be working correctly. The committee therefore determines that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

2. *There are no working carbon monoxide alarms fitted.*

20. There was no carbon monoxide alarm within the property. At the time the tenant's application was made, this was not a requirement under the repairing standard. The committee therefore determine that there can be no breach of the repairing standard in this respect. The committee observes, however, that since 1 December 2015, the repairing standard includes a requirement under section 13 (1) (f) of the 2006 Act to ensure that there is satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health. The landlord has therefore had a duty to ensure that such provision was in place from that date. Scottish Government guidance on the provision of carbon monoxide alarms in private rented housing is available at: <https://www.scottishlandlords.com/LinkClick.aspx?fileticket=t4YWI-asYF0%3D&tabid=432>

3. *The carpets in the living room and hallway are stained/soiled and causing a very unpleasant odour.*

21. The committee noted that the carpets in the living room and the hallway were heavily stained. The committee also noted that there was an unpleasant odour in some of the rooms, but it was difficult to determine where this was coming from. Mr Bassi told the committee at the inspection that new carpets were to be fitted soon. The committee determines that the carpets are furnishings provided by the landlord under the tenancy. The committee noted that, while the living environment within the property would be improved by the replacement of these carpets, the repairing standard (in terms of section 13 (1) (e) of the Act) requires only that any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed. The carpets appeared to be properly fitted and fixed to the floor and were

therefore capable of being used safely for the purpose for which they are designed.

4. *The shower head holder is broken.*

22. The shower head holder had been fixed or replaced, and appeared to be working properly. The committee therefore determines that the shower head holder is a fixture or fitting provided by the landlord under the tenancy, which was in a reasonable state of repair and in proper working order.

5. *Two cabinet doors are missing from kitchen cabinets.*

23. The committee found that the doors were still missing from two kitchen cabinets. The committee determines that the cabinets are fixtures or fittings provided by the landlord under the tenancy, which were not in a reasonable state of repair or in proper working order.

6. *The front door handle is not working properly, although the door lock still works.*

24. The committee found that the front door handle was not operating correctly. The committee determines that the front door handle is a fixture or fitting provided by the landlord under the tenancy, which was not in a reasonable state of repair or in proper working order.

7. *The storage heater in the bedroom is not working.*

25. The committee observed that the electric panel heater in the middle bedroom (which is not a storage heater) did not appear to be functioning correctly. The committee determined that the panel heater is part of the installations in the property for the supply of water, gas and electricity and for sanitation, space heating and heating water, and was not in a reasonable state of repair and in proper working order.

26. The committee notes that the Electrical Installation Condition Report provided by the landlord was not produced by a registered SELECT or NICEIC contractor as directed. The committee observes that the report recommended that category 1, 2 and 3 repairs were required, as set out in more detail at paragraph 17 above.

Summary of decision

27. The committee determines that the landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act, and in particular that the landlord has

failed to ensure that the house meets the repairing standard in that: 1) the fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order and 2) 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.

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

Rights of Appeal

29. 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.

30. 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

31. 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.

Sarah O'Neill

Signed....

.....Date..... 20/1/16.....

Sarah O'Neill, Chairperson



PRHP REF: PRHP/RP/15/0291

35B Henderson Street, Bridge of Allan, Stirling, FK9 4HN

5th January 2016

Front elevation



Lounge smoke alarm



Hall smoke alarm



Kitchen smoke alarm



Lounge carpet



Hall carpet



Shower fitting



Kitchen fittings



Front door handle



Centre Bedroom panel heater



David Godfrey MRICS

5th January 2016