



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

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/15/0337

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 by Rowland Ziervogel residing at Flat 5 /2, 79 Port Dundas Court Glasgow, G4 0HF ("the Tenant") against John Hood residing at Flat 11, 62, Saltoun Street, Glasgow, G12 9BE ("the Landlord") per his Agents, Contempo Property, 9 Newton Place, Glasgow, G3 7NB

Re: Flat 5 /2, 79 Port Dundas Court Glasgow, G4 0HF ("the Property") registered in the Land Register of Scotland under Title Number GLA171662

Committee Members

Karen Moore (Chairperson)

Mike Links (Surveyor Member)

NOTICE TO THE LANDLORD

John Hood residing at Flat 11, 62, Saltoun Street, Glasgow, G12 9BE ("the Landlord") per his Agents, Contempo Property, 9 Newton Place, Glasgow, G3 7NB

Whereas in terms of their decision dated 29 February 2016, the Private Rented Housing Committee determined that the Landlord 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 is wind and watertight and otherwise reasonably fit human habitation and that 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, that any fixtures and fittings provided by the Landlord under the tenancy are in a reasonable state of repair

and working order. 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 on or before 15 April 2016:-

1. Carry out a detailed survey by a suitably qualified and RICS registered building surveyor of the floor within the kitchen area of the Property to identify the cause of the dampness therein and, thereafter, carry out such works as are recommended by the surveyor to remedy the dampness and renew the kitchen floor covering;
2. Repair or replace the washing machine to ensure that it is full working order;
3. Repair or replace the dishwasher to ensure that it is full working order;
4. Repair or replace the fixing of the fridge freezer to ensure that it is properly and safely secured within the kitchen unit casing and, in the event that it is not possible to repair or replace the fixing to a safe and secure standard, replace the fridge freezer with a fridge freezer which is fully integrated and safely secured within the kitchen unit casing;
5. Repair or replace existing cooker hood to ensure that it is full working order;
6. Repair or replace the kickboard plinth beneath the fridge freezer in the kitchen;
7. Repair or replace existing WC cistern to ensure that it is full working order and
8. Carry out all ancillary works necessitated by the above works to make good decoration.

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 subscribed by Karen Moore, Chairperson, at Glasgow on 29 February 2016 before this witness, Norman William Moore, solicitor, Cumbernauld.

W Moore *Witness*

K Moore



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Re: Flat 5 /2, 79 Port Dundas Court Glasgow, G4 0HF ("the Property")

Committee Members

Karen Moore (Chairperson)

Mike Links (Surveyor Member)

Background

1. By application dated 4 December 2015 ("the Application"), the Tenant applied to the Private Rented Housing Panel for a determination that the Landlord had failed to comply with the duty imposed on him 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) of the Act.
2. The President of the Private Rented Housing Panel, having considered the application, intimated to the parties by Notice of Referral dated 30 December 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 fixed an Inspection and Hearing for 22 February 2016 at 11.30 a.m. and 2.00 p.m. respectively.

Inspection and Hearing.

3. Inspection took place on 22 February 2016 at 11.30 a.m. at the Property. The Tenant and the Tenant's wife were present at the Inspection. Neither the Landlord nor the Landlord's Agent was present. At the Inspection, the Tenant advised that Committee that, during his tenancy, no appliance testing had been carried out and there were no electrical safety certificates.
4. The Committee inspected the Property and the items of which the Tenant complained specifically in the Application, namely:

The flooring in the kitchen;

The fridge freezer;
The cooker hood;
The washing machine;
The dishwasher;
The floor coverings in the bedrooms;
The rug in the living room and
The WC flush.

5. The Committee took digital photos of the Property which form the Schedule annexed.
6. Following the Inspection, a Hearing was held at Wellington House, 134/136, Wellington Street, Glasgow on 22 February 2016 at 2.00p.m. The Tenant was present. Neither the Landlord nor the Landlord's Agent was present.
7. At the Hearing, the Tenant advised the Committee that he had set out his complaint in full in his application, that his complaint had been evidenced at the Inspection and so he had nothing more substantive to add.

Summary of the Issues

8. 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) of the Act at the date of the Inspection and Hearing. In particular whether the dishwasher, cooker, washing machine, flooring coverings and WC in the Property are all in a reasonable state of repair and in proper working order.

Findings of Fact

9. John Fenton Christie Hood, along with Sally Elizabeth Hood, is a co-owner of the Property under title number GLA171662 and Rowland Ziervogel is the tenant of the Property in terms of a tenancy agreement between the parties dated 3 January 2007.
10. The subjects comprise a three apartment flat situated on the fifth floor of a modern flatted development estimated to be in the region of 13 years old or thereby. The building is assumed to be of brick/block construction. The floor throughout is assumed to be of floating timber design over concrete.
11. From the Inspection, the Committee found the following:

The linoleum flooring covering in the kitchen immediately in front of the integrated oven and hob is badly worn and there is large hole causing a serious trip hazard. The chipboard floor has disintegrated and there is a deflection in the floor at this location. There is evidence of dampness (photo 3);

The fridge freezer appears not to be properly secured and the kickboard plinth beneath it is broken. The fridge freezer should be fully integrated within a kitchen unit casing but it appears that a temporary or make shift casing has been constructed in attempt to secure it to the casing (photo 4);

The cooker hood is not functioning (photo 11);

The washing machine programme dial is broken and so washing programmes cannot be selected (photo 5);

The upper shelf of the dishwasher is broken as it cannot be secured within the runners and fixings (photo 6);

The floor coverings in the bedrooms, whilst of fairly poor quality, are of a reasonable standard (photo 7 and 8);

The rug in the living room whilst worn in parts is of a reasonable standard (photo 9) and

The WC flush is broken and usable (photo 12).

12. The Committee noted that there is only one hard wired smoke alarm in the hallway of the Property, there are no carbon monoxide alarms and there is no heat detector. The Committee also noted that the windowsill in the main bedroom is loose (photo 11).

Decision of the Committee

13. The Committee's decision was based on the Application with supporting documents, the Inspection and on the statements made to the Committee by the Tenant.
14. In respect of Section 13 (1) (d) of the Act, the Committee found that at the date of the Hearing the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act as the cooker hood, washing machine and dishwasher are not in reasonable working order; the fridge freezer is not properly secured and so is not in reasonable working order as an integrated appliance; the linoleum flooring covering in the kitchen immediately in front of the integrated oven and hob is badly worn and there is large hole causing a serious trip hazard.
15. With regard to the WC the Committee noted that this properly falls under Section 13 (1) (c) of the Act. The Committee noted that the Landlord had prior notice of this complaint and so the Committee found that at the date of the Hearing the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act in respect of Section 13 (1) (c) as the WC cannot be flushed properly.
16. With regard to the crumbling chipboard flooring and dampness therein in the kitchen, the Committee noted that this properly falls under Section 13 (1) (a) of the Act. The Committee noted that the Landlord had prior notice of this complaint and so the Committee found that at the date of the Hearing the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act in respect of Section 13 (1) (a).
17. With regard to the lack of sufficient hard wired smoke alarms, carbon monoxide alarms and heat detector in the Property, the Committee noted that the Landlord had had no prior notice of this complaint and so the Committee could not find that at the date of the Hearing the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act in respect of Section 13 (1) (f). However, the Committee advise the Landlord that, in the event that the Property is re-let, the provision for detecting fires and for giving warning of fire or suspected fire in the Property should be brought up to current regulatory standards.
18. With regard to the loose windowsill in the main bedroom, the Committee noted that the Landlord had had no prior notice of this complaint and so the Committee could not find that at the date of the Hearing the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act in respect of Section 13 (1) (b). However, the Committee

recommend to the Landlord that, in the event that the Property is re-let, the windowsill should be repaired.

19. The decision is unanimous.
20. The Committee, having determined that the Landlord 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

21. 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.
22. 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

Date 29 February 2016

29 Feb 2016,

This is the schedule referred to in
the foregoing decision

SCHEDULE OF PHOTOGRAPHS

K Moore

Flat 5/2, 79 Port Dundas Rd, Glasgow G4 0HF

Date of Inspection: 22nd Feb 2016

Ref: PRHP/RP/15/0337



Front elevation



Rear elevation



Kitchen floor-damp/decay



Plinth support for fridge. Kick brd



Washing machine-broken selector. Dishwasher-broken track



Living Rm rug



Bedroom carpet



Bedroom carpet



Loose Bedroom sill/plaster



Cooker hood



Toilet plunger