



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Case Reference Number: PRHP/RP/15/0347

Re: 4 Sandbank Avenue, Glasgow G20 0DB (“the property”)

Land Register Title No: GLA76106

The Parties:-

Mr Christopher Stevens, formerly residing at the property (“the tenant”)

Ms Susan Garbett, c/o Northwood Glasgow North Ltd, 43 Milngavie Road, Bearsden, Glasgow G61 2DW (“the landlord”)

The committee: – Sarah O’Neill (Chairperson); Carol Jones (Surveyor Member)

NOTICE TO: Ms Susan Garbett (the landlord)

Whereas in terms of its decision dated 22 March 2016, the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed on her 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 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.

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 shower screen and adjust the bath as necessary in order to ensure that both shower screen and bath are in a reasonable state of repair and in proper working order.
2. Repair or replace the wardrobe door in the right hand bedroom 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 **one month** 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 twenty-second day of March, Two Thousand and Sixteen before this witness -

M Morton

S O'Neill

_____ witness

_____ chairperson

Murray Morton name in full

PHHP, EURPA BUILDING Address
ARGYLE ST GLASGOW.

CIVIL SERJANT



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/15/0347

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The Parties:-

Mr Christopher Stevens, formerly residing at the property (“the tenant”)

Ms Susan Garbett, c/o Northwood Glasgow North Ltd, 43 Milngavie Road, Bearsden, Glasgow G61 2DW (“the landlord”)

The committee: – Sarah O’Neill (Chairperson); Carol Jones (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 her 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 15 December 2015, the tenant applied to the Private Rented Housing Panel ("the panel") for a determination that the landlord had failed to comply with her duties under Section 14(1) of the Act.
2. In his application, the tenant stated that he believed the landlord had failed to comply with her duty to ensure that the property met the repairing standard as set out in sections 13(1) (a) (c) and (d) of the Act. His application stated that the landlord had failed to ensure that:
 - the house is wind and watertight and in all other respects reasonably fit for human habitation
 - the installations in the house 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
3. The tenant made the following complaints in his application form:
 1. dampness accumulates in every room
 2. insufficient shower screen- bath fitted at angle
 3. heaters do not warm house enough
 4. heaters incredibly expensive despite operating inadequately
 5. mould in several rooms- comes back after cleaning
 6. broken wardrobe doors
 7. rotten carpet in bedroom
4. The tenant stated in his application that the following work required to be carried out at the property:
 - Damp proofing- not just painting over it
 - Investigate heating issue
 - Replace wardrobe doors
 - Replace bedroom carpet
 - Fix issue with shower water/screen
 - Redecorate mouldy walls.
5. On 31 December 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 on 18 December 2015; and intimating her decision to refer the application to a panel committee for determination.

6. The President of the panel wrote to the parties on 15 January 2016, 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 10 March 2016. Written representations were requested by 5 February 2016. No written representations were received from either party by the deadline.

7. On 19 February, an email was received from the tenant confirming that he had moved out of the property, and would be 'officially leaving' the property that day. On 22 February, an email was received from the landlord's agent, confirming this. On 24 February 2016, 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 his 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.

The inspection

8. The committee inspected the property on the morning of 10 March 2016. The weather conditions at the time of the committee's inspection were dry and bright. Mr Barry Dunlop, the Director of Northwood Glasgow North Limited, the landlord's agent, and Mr Bill Garbett, the landlord's father, were both present at the inspection. Photographs were taken during the inspection and are attached as a schedule to this decision.

The property

9. The property is a ground floor four-in-a-block flat estimated to be in the region of 25-30 years old and located in the Maryhill district of Glasgow, around 3.5 miles north-west of the city centre. The property comprises: a small entrance porch, living room, two bedrooms, kitchen and bathroom. The property was let to the tenant on a furnished basis.

The hearing

10. Following the inspection, the committee held a hearing at Wellington House, 134-136 Wellington Street, Glasgow G2 2XL. Mr Dunlop was present at the hearing, and gave evidence on the landlord's behalf.

The evidence

11. The evidence before the committee consisted of:

- The application form completed by the tenant.
- Registers Direct copy of Land Register title GLA76106.
- Short assured tenancy agreement relating to the property between the landlord and the tenant and Ms Caitlin Owens and signed by the landlord on 29 October 2014.
- Various email correspondence between the tenant / Ms Owens and the landlord's agent regarding the complaints made in the tenant's application and other issues dated between 30 October 2014 and 16 December 2014.
- Email correspondence between the tenant and Northwood GB Ltd regarding his formal complaint about the landlord's letting agent, Northwood Glasgow North Ltd dated between 12 and 23 December 2014.
- Formal complaint response letter to the tenant from Northwood GB Ltd dated 27 January 2015
- Various email correspondence between the tenant and Northwood GB Ltd dated 27 January 2015
- Further email correspondence between the tenant/ Ms Owens and the landlord's agent, Northwood Glasgow North Ltd dated between 3 - 12 February; 20 April; 20 May; 23 November; and 10-15 December; all 2015.
- Email from the tenant to the panel dated 19 February 2016.
- Email from the landlord's agent to the panel dated 22 February 2016.

Summary of the issues

12. 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 her by section 14 (1) (b).

Findings of fact

13. The committee made the following findings in fact:

- The tenant and Ms Caitlin Owens entered into a tenancy agreement with the landlord on 29 October 2014 to rent the property for a period of six months from that date.
- The owner of the property is Ms Susan Garbett, who is currently living overseas.
- The property was let through the landlord's agent, Northwood Glasgow North Limited, 43 Milngavie Road, Bearsden G61 2DW.
- The committee in its inspection carefully checked the items which were the subject of the complaint. The committee observed the following:
 - i. The property had recently been redecorated throughout.
 - ii. Damp readings were taken throughout the property. These indicated slight dampness in some areas along the base of the back wall in the bedrooms, but overall there were no significant signs of a dampness problem.
 - iii. There were wall mounted electric panel heaters throughout the property. The committee tested these and found them to heating up adequately.
 - iv. The carpet in the left hand bedroom had recently been replaced.
 - v. One of the doors of the fitted wardrobe in the right hand bedroom was not operating properly.
 - vi. When the shower was switched on, water was observed to be running onto the floor from the side of the shower screen.
 - vii. No signs of mould were visible anywhere in the property.
 - viii. A new filter drain with trap had recently been installed outside the rear wall of the property, and the gutter above had been cleaned out.

Reasons for decision

14. 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. Dampness and mould

15. At its inspection, the committee took damp readings throughout the property. These indicated slight dampness in some areas along the base of the rear wall in the bedrooms, but overall there were no signs of a significant dampness problem. Mr Dunlop told the committee that there had been some issues during the tenant's tenancy with dampness in the bedrooms of the property, but that these had now been addressed. Firstly, there had been a problem with leakage into the left hand bedroom from the bathroom next door, which had been resolved following an insurance claim. A leak under the bath was repaired and the bathroom floor replaced. Secondly, there had been an issue with the drainage at the rear of the property, which had affected the rear wall. The drains and path to the rear of the property had been dug up, the gutter above had been cleaned out, and a new filter drain with trap had recently been installed.
16. Mr Dunlop also told the committee that he had observed some signs of dampness and mould in the property during the tenant's tenancy, in the left bedroom and behind the wardrobe. He was of the view that this was a result of the tenant's actions. He said that the tenant had large amounts of belongings packed up against the walls in the property, which was a small flat. He also said that the tenant had not adequately ventilated and heated the property.
17. The committee observed at its inspection that the rear wall of the property was north facing, and was therefore likely to be cold and to attract condensation if the right conditions are present. The committee found Mr Dunlop to be a credible witness and accepted his evidence. The committee did not observe any signs of mould at its inspection, and notes that the property had recently been redecorated. The committee considers that on the balance of probabilities, the problems experienced by the tenant were likely to have been the result of a combination of the dampness issues which had now been addressed and condensation, which may have been exacerbated by inadequate heating and ventilation, and the storing of items within the property.
18. On the basis of its inspection and all the evidence before it, the committee determines that at the time of its inspection, the property was wind and watertight and in all other respects reasonably fit for human habitation.

2. *Insufficient shower screen*

19. The committee observed at its inspection that, when the shower was switched on, water ran onto the floor from the side of the shower screen. Mr Dunlop told the committee that he accepted that this matter required to be addressed. He said that the bath had been taken out and reinstalled during the works carried out as a result of the insurance claim, but that it appeared it had not been

reinstalled correctly, and that the work would have to be done again to ensure the bath is level.

20. On the basis of its inspection and all the evidence before it, the committee determines that the shower screen and bath are fixtures or fittings provided by the landlord under the tenancy which are not in a reasonable state of repair and in proper working order.

3. *Heaters*

21. The tenant had made two separate but related complaints about the heaters- 1) that they did not warm the property enough and 2) that they were very expensive to operate. The committee notes that in terms of section 13 (1) (c), the repairing standard requires only that the installations supplied for heating are in a reasonable state of repair and proper working order. The committee observed at its inspection that the heaters appeared to be heating up adequately. Mr Dunlop told the committee that electric heaters were expensive to run, but that they were efficient. He said that the tenants had not been switching the heaters on sufficiently often, and that the heaters provided plenty of heat if they were turned on.

22. On the basis of its inspection and all the evidence before it, the committee determines that the installations in the house 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.

4. *Wardrobe doors*

23. The committee observed at its inspection that one of the doors of the fitted mirrored wardrobes in the right hand bedroom was not operating properly. Mr Dunlop acknowledged that the door was not operating correctly, and said that one of the hinges was loose and required to be tightened up.

24. On the basis of its inspection and all the evidence before it, the committee determines that the fitted wardrobe in the right hand bedroom is a fixture or fitting provided by the landlord under the tenancy which is not in a reasonable state of repair and in proper working order.

5. *Bedroom carpet*

25. Mr Dunlop told the committee that there had been a damp patch on the carpet as a result of the leak from the bathroom. He said that the carpet had been replaced with a brand new carpet, and the committee had observed this to be the case at its inspection. The committee determines that the bedroom carpet is

a fixture or fitting provided by the landlord under the tenancy which is in a reasonable state of repair and in proper working order.

Summary of decision

26. 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 some of 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.

27. The committee notes that the failures to comply with the repairing standard concern relatively minor issues, but that where a committee finds that the landlord has failed to comply with the repairing standard duty, it must make a Repairing Standard Enforcement Order in terms of section 24(2) of the Act. The committee therefore makes a Repairing Standard Enforcement Order as required by section 24 (2) of the Act.

Rights of Appeal

28. 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.

29. 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

30. 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 22/3/16

Sarah O'Neill, Chairperson