



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/16/0019

Re : Property at 23b Nile Street, Kirkcaldy, Fife KY2 5AX ("the Property")

Land Certificate No: FFE26206

The Parties:-

Zakullah Raja Begum, residing sometime at 26 Kent Road, Dunfermline and now at 25g Dunnikier Road, Kirkcaldy, Fife KY1 2RU ("the Landlord") and

Piotr Wozniak, residing at 23b Nile Street, Kirkcaldy, Fife KY2 5AX ("the Tenant")

NOTICE TO ZAKAULLAH RAJA BEGUM ("the Landlord")

Whereas in terms of their decision dated 2015, the Private Rented Housing Committee determined that the landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the landlord has failed to ensure that:-

- (a) the Property is wind and water tight and in all other respects fit for human habitation,
- (b) 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,
- (c) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order,
- (f) the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, and
- (g) the Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

the Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the Landlord:-

1. To install in the Property interlinked, mains-wired smoke detectors and in the hallway and living room and a heat alarm in the kitchen, all of which comply with the revised Domestic Technical Handbook and the Scottish Government's guidance on the requirements for smoke alarms.
2. To install one or more carbon monoxide detectors in the Property to comply with the Scottish Government's Guidance for the Provision of Carbon Monoxide Alarms in Private Rented Housing, which came into effect on 1 December 2015.
3. To carry out such repairs to the roof, including the slatework, defective rones and associated flashings as are necessary to make the Property wind and water tight.
4. To instruct a suitably qualified electrician to replace the cooker extraction hood in the kitchen or to carry out such repairs to the existing extraction hood as are necessary to restore it to proper working order.
5. To instruct a suitably qualified Gas Safe engineer to carry out such repairs to the gas fire in the living room as are necessary to restore it to proper and safe working order or to disconnect it.
6. To carry out such work as is necessary to repair the leak from the pressure valve adjacent to the boiler.

7. To exhibit to the Committee a current Gas Safety Certificate in respect of the Property, including the boiler and the gas fire.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 4 weeks from the date of service of this Notice.

A landlord or a 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.

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 typewritten on this and the preceding page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade, on 27 April 2016, before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

V Clark

_____ witness

G Clark

_____ chairman



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

prhp Ref: PRHP/RP/16/0019

Re : Property at 23b Nile Street, Kirkcaldy, Fife KY2 5AX ("the Property")

The Parties:-

Zakaullah Raja Begum, residing sometime at 26 Kent Road, Dunfermline and now at 25g Dunnikier Road, Kirkcaldy, Fife KY1 2RU ("the Landlord") and

Piotr Wozniak, residing at 23b Nile Street, Kirkcaldy, Fife KY2 5AX ("the Tenant")

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) in relation to the house concerned, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application received on 19 January 2016 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:
 - (a) the house is wind and water tight and in all other respects reasonably fit for human habitation,
 - (b) 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,
 - (c) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order
 - (d) the house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire, and
 - (e) the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. By letter dated 15 March 2016 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.

5. Subsequent to service of the Notice of Referral, the Tenant advised the Panel, by e-mail dated 15 April 2016, that he wished to withdraw his application, as he was intending to leave the Property within the next 3 months and was already looking for alternative accommodation. The Committee had, therefore, to consider whether, under Schedule 2, Paragraph 7(1) of the Housing (Scotland) Act 2006 ("the Act"), the Tenant was to be treated as having withdrawn the application under Section 22(1) of the Act. The Private Rented Housing Committee then considered the application and whether said application should be determined or whether it should be abandoned, all in terms of Schedule 2 Paragraph 7(3) of the Act. The Committee determined that, as the alleged defects, if substantiated, raised significant concerns for the health and safety concerns of any subsequent tenants of the Property, the Committee would determine the application and intimation to that effect was sent to the Parties.
6. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than the original application received on 19 January 2016. The Landlord made no written representations to the Committee.
7. The Private Rented Housing Committee inspected the Property on the morning of 27 April 2016. The Tenant was present at the inspection. The Landlord was not present or represented during the inspection.
8. The Committee comprised George Clark (chairman) and David Lawrie (surveyor member).
9. A folder of photographs, taken at the inspection, is attached to and forms part of this Statement of Decision.
10. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Linktown Community Action Centre, Ramsay Road, Kirkcaldy KY1 1UH. The Tenant, having withdrawn the application, was not present or represented at the hearing. The Landlord was not present or represented at the hearing.
11. The Tenant submitted as follows:- there were missing light fittings and exposed wires, the battery-operated smoke detector was defective, there was penetrating dampness in the living room and hallway, the mechanical ventilation in the kitchen was not working, the gas fire in the living room was not working, the boiler had a fault and was not working and the stove had a fault and was not working.
12. The Landlord made no submissions to the Committee.

Summary of the issues

13. The issues to be determined were whether the Property met the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duties imposed on landlords by Section 14(1)(b) of the Act.

Findings of fact

14. The Committee finds the following facts to be established:-
 - The tenancy is a Short Assured Tenancy which commenced on 1 July 2015.
 - The Property comprises an upper floor dwellinghouse in a traditionally-built block of four houses. Its entrance door is at the rear of the block and is accessed by an external staircase.
 - The Committee has not seen a current Gas Safety Certificate in respect of the Property, which has gas central heating, a gas fire and a gas hob.
 - There is a battery-operated smoke detector in the hallway of the Property. There are no other smoke detectors in the Property and there is no heat detector in the kitchen.
 - There are no carbon monoxide detectors in the Property.

- There is evidence of staining caused by penetrating dampness in two areas on the ceiling of the living room. There is no evidence of penetrating dampness in the hallway.
- The ceiling light fitting in the living room appears to have been recently repaired or replaced. The light fitting in the hallway is in working order. There are no exposed wires.
- The cooker extraction hood in the kitchen is not working.
- There is a supply of gas to the gas fire in the living room, but the spark does not ignite.
- The central heating boiler appears to be in working order. At the time of the inspection, it was functioning and the pressure gauge indicated that the pressure was within the normal range. There is, however, a minor leak at the pressure valve. The Tenant confirmed that they have a working hot water supply.
- The oven in the kitchen is not working.

Reasons for the decision

15. The Committee was very concerned that there were no mains-wired, interlinked smoke detectors in the hallway and living room of the Property, that there was no heat detector in the kitchen and that there were no carbon monoxide detectors, given that there is a gas central heating boiler, a gas fire and a gas oven. The Committee requires the Landlord to install these important safety devices in accordance with Scottish Government Guidance and the Committee determined to make an Order to that effect. The Committee was also concerned that the Landlord had not submitted any written submissions, so that there was no evidence of a current Gas Safety Certificate in respect of the Property. This had clear health and safety implications for the Tenant and his family and the Committee determined to make an Order requiring the Landlord to exhibit it, in order to meet his legal obligation. The gas fire was supplied by the Landlord, so should be in proper working order, as should the cooker extraction hood in the kitchen. The leaking pressure valve adjacent to the central heating boiler is also in need of repair. The Committee noted that the oven was not working, but was unable to make an Order requiring it to be repaired as the Committee had not seen evidence that the Landlord had been notified of this particular defect. The Committee recommends that the Landlord carries out such repairs as are necessary to ensure that the oven is in proper working order.
16. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
17. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
18. The decision of the Committee was unanimous.

Right of Appeal

19. **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.**

Effect of section 63

20. 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.

Signed... **G Clark** Chairperson Date... 27 April 2016

















