



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/16/0095

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 ("the Act") by Joanna Seery residing at 377, Lincoln Avenue, Glasgow, G13 3LY ("the Tenant") against Kimberley Dawn Munro Love residing at 101, Cloberhill Road, Glasgow ("the Landlord")

Re: Property at 377, Lincoln Avenue, Glasgow, G13 3LY ("the Property") registered in the Land Register for Scotland under Title Number GLA85924

Committee Members

Karen Moore (Chairperson)

Mike Links (Surveyor Member)

NOTICE TO THE LANDLORD

Kimberley Dawn Munro Love residing at 101, Cloberhill Road, Glasgow

Whereas in terms of their decision dated 27 May 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 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 and 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 Landlords must on or before 30 June 2016:-

Carry out a certificated electrical condition check (EICR) on the entire electrical installation of the Property, by a suitably qualified and registered SELECT or NICEIC electrical contractor and carry out such repair or replacement works as recommended by that check to ensure that the electrical sockets in the kitchen are operating properly and that there are sufficient heat, smoke and carbon monoxide detectors in proper working order to comply with the current standards being the building regulations and current Statutory Guidance issued by the Scottish Ministers both of which standards are available on the Scottish Government's website current regulations and provide a certificate confirming these works have been carried out to the Committee.

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 27 May 2016 before this witness, Norman William Moore, solicitor, Cumbernauld.

Norman Moore

Witness

Karen Moore



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Re: Property at 377, Lincoln Avenue, Glasgow, G13 3LY ("the Property")

Committee Members

Karen Moore (Chairperson)

Mike Links (Surveyor Member)

Background

1. By application dated 8 March 2016, ("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 her by Section 14 (1) (b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (c), 13 (1) (d) and 13 (1) (f) of the Act.
2. A Notice of Referral, Inspection and Hearing, dated 30 March 2016, was sent to the Landlord and the Tenant and in terms of Schedule 2, Paragraph 1 of the Act, an Inspection and Hearing were fixed for 11 May 2016 at 11.00 and 15.30 respectively.
3. The Landlord submitted written representations to the Committee which were copied to the Tenant.
4. The Tenant submitted lengthy written representations to the Committee on the day before the Inspection and Hearing. The Committee took the view that these written representations had been submitted outwith the permitted time limit and too late to allow the Landlord fair notice to respond and so the Committee declined to accept their submission.

The Inspection and Hearing.

4. Inspection took place on 11 May 2016 at 11.00 a.m. at the Property. The Tenant and the Landlord were present. The Landlord was accompanied by her mother Miss Sandra Munro.

5. The Committee inspected the Property and the items of which had been complained of specifically in the Application, namely:-

- a) The faulty electrical sockets in the kitchen;
- b) The provision of sufficient electrical sockets in the kitchen ;
- c) The boiler ;
- d) Lack of a light fitting in the living room ;
- e) Lack of safety certificates for electrical appliances and
- f) No provision for detecting fires.

6. The Committee took digital photos of the Property which form the Schedule annexed.

7. Following the Inspection, a Hearing was held at Wellington House, Wellington Street, Glasgow, G2 2XL at 3.30 p.m. The Tenant and the Landlord were both present. The Tenant was accompanied by her friend, Miss McGinlay. The Landlord was accompanied by Miss Munro.

8. The Tenant advised the Committee that the boiler had been replaced and so the main causes of concern were the condition of the electric sockets in the kitchen which tripped when in use and the sufficiency of these sockets. The Tenant advised the Committee that she had reported this to the Landlord but no electrician had called.

9. The Landlord agreed that the Tenant had reported the tripping switches to her and agreed that she had not instructed an electrician. The Landlord explained that there was a circuit breaker and so she assumed the switches to be safe.

10. Both parties agreed that the Tenant used an extension cable from sockets outwith the kitchen in order to use kitchen appliances. The Landlord had video footage of Tenant's use of an extension cable which the Committee declined to view the video footage as this point was not in dispute by the parties.

11. Both parties agreed that there had been no light fitting in the living room throughout the tenancy.

12. The Landlord advised the Committee that one of the two smoke detectors in the hall was hard wired. The Tenant advised the Committee that the other smoke detector had been put in place by Scottish Gas when the boiler was renewed but that she did not know if it was hardwired or not.

13. The Tenant advised the Committee that she had removed from the Property following the Inspection. She returned the key to the Property to the Landlord during the course of the Hearing. The Committee considered whether to continue with the proceedings in terms of Schedule 2,

Paragraph 7(3)) of the Housing (Scotland) Act 2006, and, as a complaint had been made regarding electrical safety, in the interests of the health and safety of potential future tenants, the Committee determined to continue the proceedings.

Summary of the Issues

14. The issues to be determined by the Committee are whether or not the Property meets the Repairing Standard in respect of Sections 13 (1) (c), 13 (1) (d) and 13 (1) (f) of the Act at the date of the Inspection and Hearing. In particular, whether 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, whether any fixtures and fittings provided by the Landlord under the tenancy are in a reasonable state of repair and working order and whether the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Findings of Fact

15. Kimberley Dawn Munro Love is the owner of the Property under title number GLA85924, having acquired ownership on 2 April 2009. Miss Seery is the tenant of the Property in terms of a tenancy agreement dated 17 September 2009 between the Tenant and Sandra Munro per Letting Agents On the Move of 1B, City Wall House, 32 Eastwood Avenue, Glasgow G41 3NS. From the Application and the Landlord's written representations, the Committee are satisfied that notwithstanding Sandra Munro being named in the tenancy agreement, Kimberley Dawn Munro Love is the Landlord.

16. The Property is an upper floor flat forming part of a block of four flats and comprises two bedrooms, living room, kitchen and bathroom. The Property is an ex-local authority property, is around 80 years old and appears to be of traditional cavity brick construction, with slated roof and UPV double glazed windows throughout

17. From the Inspection, the Committee found the following:-

- a) There are two double gang electrical sockets in the kitchen and one single socket. It was not possible to ascertain if these were faulty or not at the Inspection but on the balance of probability if these sockets were overloaded it is most likely that they did fail;
- b) There is no statutory minimum number of electrical sockets to be provided by a Landlord;
- c) The boiler appears to have been replaced and appears to be in working order;
- d) There is no light fitting in the living room and
- e) There are two smoke detectors in the hall but it was not possible to ascertain if these are hardwired.

Decision of the Committee

18. The Committee's decision was based on the Application, the Landlord's written representations, the Inspection and the Hearing.

19. In respect of Section 13 (1) (c) 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 it could not be ascertained 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 as there is a likelihood that the electrical sockets in the kitchen are faulty.

20. In respect of Section 13 (1) (d) of the Act, the Committee found that at the date of the Hearing the Landlord has not failed to comply with the duty imposed by Section 14 (1) (b) of the Act as no detail of any complaint regarding fixtures and fittings provided by the Landlord under the tenancy was made by the Tenant and none was noted by the Committee at the Inspection or at the Hearing.

21. In respect of Section 13 (1) (f) 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 it cannot be ascertained that the smoke detectors are hard wired.

22. The decision is unanimous.

23. 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

24. 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.

25. 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

Karen Moore

Karen Moore, Chairperson

Date 27 May 2016

27 May 2016

This is the schedule referred to in the foregoing Decision

Karen Moore

Inspector and notary public Glasgow

SCHEDULE OF PHOTOGRAPHS

377 LINCOLN AVENUE GLASGOW G13 3LY

REF: PRHP/RP/16/0095 11 MAY 2016



Front elevation



Tester in kit socket



Tester in Kit socket



Consumer unit



Living rm ceiling rose



Hall smoke detector



Smoke detector



Smoke detector

CO detector