



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

prhp Ref: PRHP/FK2/50/10

Re: Property at 8 Farm Street, Falkirk, FK2 7SS ("the Property")

The Parties:-

Mrs Kirsty Black residing at 8 Farm Street, Falkirk, FK2 7SS ("the Tenant")

Mr Mohammed Aslam residing at 10 Emmas Way, Bonnybridge, FK4 1GF ("the Landlord")

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, and taking account of the evidence led by both the Landlord and the Tenant at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 3 March 2010 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 Tenants stated that the Tenants considered that the Landlord had failed to comply with his duty to ensure that the Property meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation.
 - (b) The structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.
 - (c) 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.
 - (d) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
 - (e) Any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
3. By letter dated 23 March 2010 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 Tenants.
5. Following service of the Notice of Referral the Tenants made no further written representation to the Committee other than their original application dated 3 March 2010. The Landlord made no written representations to the Committee.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member; Mr I Mowatt, Surveyor Member; and Mrs C Anderson, Housing Member accompanied by the Clerk, Mrs A Allison) inspected the Property on the morning of 10 June 2010. The Tenant was present during the inspection as was Mr Craig Beatt of the Private Sector Housing Unit of Falkirk Council. The Landlord was not present during the inspection.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at the Best Western Park Hotel, Camelon Road, Falkirk and heard from the Tenant. The Landlord was not present nor represented. The Tenant represented themselves and was accompanied by Mr Craig Beatt of the Private Sector Housing Unit of Falkirk Council.
8. The Tenant submitted that the Property still did not meet the repairing standard. In the last week or so, prior to the inspection, the Landlord had begun to carry out some works at the Property. However in the Tenant's view there were still works requiring to be completed. The Tenant had given the Committee the benefit of inspecting the Property and was content to let the Committee decide having seen the Property. One point the Tenant made was that the heater in the lounge/dining area was not, in her opinion, adequate. It had no form of temperature control and could only be switched on or off. When it was on, it got very hot and the Tenant was concerned that her two young children could touch this and could suffer an injury. The previous heater that had been present when they moved in was capable of thermostatic control.
9. The Landlord had not appeared at either the inspection or the Hearing and had not submitted any representations.

Summary of the issues

10. The issues to be determined were:-
 - (a) Whether the cooker required to be portable appliance tested and whether or not it was in proper working order.
 - (b) Whether the heating system throughout the Property was in proper working order.
 - (c) Whether the window vents could open and were in proper working order.
 - (d) Whether the bath panel was cracked and required to be repaired or replaced.
 - (e) Whether the light pull in the bathroom was in proper working order.
 - (f) Whether the electrical switch in one of the bedrooms was working properly.
 - (g) Whether the overhead ceiling pendant in one of the bedroom was in proper working order.
 - (h) Whether the heater and heater cover in the hall was in proper working order.
 - (i) Whether the laminate flooring in the hall required to be repaired or replaced.
 - (j) Whether there was a hole in the external wall in one of the bedrooms.

- (k) Whether there was excessive condensation build up around the windows throughout the Property.
- (l) Whether there were wires in the living room that required to be removed.
- (m) Whether the front door was sticking or in proper working order.

Findings of fact

11. The Committee found that:-

- (a) The cooker was not in proper working order in that one ring was not working and the door to the oven did not close properly.
- (b) Whilst the heater in the lounge had been replaced the previous heater had had temperature control but the replacement did not. The hall heater was covered by a poor wooden frame. There were controls missing from the heater itself. The bedroom heater in the girls bedroom was not properly connected to the wall, part of the plastic casing had melted and the switch on the on/off button was missing.
- (c) All the window vents had been attended to by the Landlord and could open.
- (d) The bath panel was cracked.
- (e) The light pull in the bathroom was now working.
- (f) The electrical switch in the bedroom had now been repaired.
- (g) The overhead ceiling pendant in the bedroom had now been fixed.
- (h) A piece of laminate floor in the hall was missing.
- (i) The hole in the main bedroom wall had been patched. No evidence could be found of a hole in the external side of the bedroom.
- (j) Condensation had become less of an issue as the weather had improved. The Committee were hopeful that the repair of the window vents would also assist in this regard.
- (k) The two wires referred to in the living room were simply TV aerials.
- (l) The front door handle needed repair and the door itself was needing to be repaired to ensure it would open and shut properly.

Reasons for the decision

12. The Committee reached its decision based on the evidence obtained by the Committee at the inspection on 10 June 2010. The Committee inspected the cooker at the Property. The front right ring did not work and would require to be repaired or replaced by the Landlord. The door to the oven below the cooker rings did not shut properly and would need to be repaired or replaced.

The Committee considered the heaters throughout the Property. In relation to the lounge heater the Committee noted at the Hearing that the heater that had been present at the time of the Tenant moving in was capable of thermostatic control. The replacement was not, it could only be switched on or off. The Committee noted that the Tenant found it difficult to regulate the temperature in the Property as it could not be set thermostatically and the heater became very hot to the touch. The Committee also noted that the Tenant had two young children and that a very hot heater that could not be controlled was a potential safety issue. In the circumstances, the Committee were of the view that the

lounge heater should be replaced with a new heater that was capable of being thermostatically controlled by the Tenant as that was what had been present when the Tenant had moved in originally.

In relation to the heater in the main bedroom and the boy's bedroom, these were in proper working order. The Tenant had never been shown how to properly work these and how to use the timers on these. The Committee showed the Tenant what was required here. The Committee were satisfied that these two heaters were in proper working order. In relation to the heater in the girl's bedroom, this was not properly affixed to the wall and would require to be fixed. The plastic casing covering the control panel had melted at one point and was very difficult to open. The switch on the on/off control was missing and would require to be repaired or replaced. In relation to the hall heater this had a loose wooden frame sitting over it which the Tenant had complained of. Upon inspection the Committee pointed out to the Tenant that the hall heater stated on the top of it that it was not to be covered and accordingly the simplest thing would be to remove the wooden frame. The Committee noted that the temperature control and timing switches on the hall heater were missing and these would require to be repaired or replaced.

The Committee inspected the window vents and noted that they could all now be opened as work had been carried out by the Landlord in this regard.

The Committee inspected the bath panel. This was loose and had a severe crack in it. It would not be capable of repair and accordingly would require to be replaced.

The Committee noted that the light pull in the bathroom was now working and the Landlord had also repaired the electrical switch in one of the bedrooms and the overhead ceiling pendant in the bedroom.

The Committee inspected the laminate floor in the hall outside the boy's bedroom. A triangular piece had come away. This was a potential trip hazard and accordingly a new piece of laminate would require to be laid along with a space bar between the hall and the bedroom.

The Tenant had complained of a hole in the bedroom wall that went right through to the external wall of the building. The hole on the internal side of the bedroom had now been patched up by the Landlord satisfactorily. The Committee were unable to observe any hole in the external wall of the Property.

The Committee noted from the Tenant that the condensation build up around the Property was significantly less. This was due, in part, to the better weather now being experienced but, the Tenant acknowledged, also due to the fact that the window vents were now capable of being opened properly. The Committee considered what works might be required here and in the circumstances were hopeful that the excessive condensation would not occur again due to the window vents being repaired. On the day of the inspection, the windows were free of condensation. The windows otherwise appeared to be in good order.

The Committee inspected the two wires that were in the living room. Both of these appeared to be TV aerials and were not live and therefore not a safety issue. In the circumstances, the Committee did not consider that anything required to be done in this regard.

The Committee inspected the front door. In relation to the handle, there were screws missing from both sides that would require to be replaced. The Committee also noted that the door was slightly warped and required some force to make it close. The Landlord would require to carry out such works as were necessary to ensure the door could open and close smoothly.

Decision

- 13. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
- 14. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
- 15. The decision of the Committee was unanimous.

Right of Appeal

- 16. 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

- 17. 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.

E Miller

Signed Date.....
Chairperson

18/6/2010



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee *under 18/6/2010*

prhp Ref: PRHP/FK2/50/10

Confirmed a true and complete copy

Re: Property at 8 Farm Street, Falkirk, FK2 7SS ("the Property")

Signed *B-G*

Title No: 8 Farm Street, Falkirk being the first floor flat forming part of block 2-12 Farm Street, Falkirk and being the subjects registered in the Land Register of Scotland under Title Number STG1131

Notary Public

The Parties:-

Mr Mohammed Aslam residing at 10 Emmas Way, Bonnybridge, FK4 1GF ("the Landlord")

Mrs Kirsty Black residing at 8 Farm Street, Falkirk, FK2 7SS ("the Tenant")

NOTICE TO MOHAMMED ASLAM ("the Landlord")

Whereas in terms of their decision dated 18 June 2010, 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 the property is:-

- (a) wind and watertight and in all other respects reasonably 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 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.

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:-

- (a) To repair or replace the front right cooker ring element and to ensure that it is in proper working order.
- (b) To repair or replace the oven door forming part of the cooker and to ensure that it is in proper working order.
- (c) To replace the lounge heater with one capable of being thermostatically controlled by the Tenant.
- (d) To either repair the hall heater by the provision of replacement thermostatic and timing control switches failing which by the replacement of the hall heater itself.
- (e) To properly fix the girl's bedroom heater to the wall and to repair or replace as appropriate the melted cover for the control panel and the missing on/off switch.
- (f) To replace the cracked bath panel.
- (g) To replace the missing laminate flooring in the hallway and to install a space bar between the hallway and bedroom
- (h) To repair the door handle to ensure it is no longer loose and to carry out such repair works as are necessary to allow the front door to open and shut smoothly.

The Private Rented Housing Committee order 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.

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 type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on ^{15th} June 2010 before this witness:-

N E Sinclair

_____ witness

E Miller

_____ Chairman

NINA ELIZABETH SINCLAIR name in full

Whitehall House Addresss

33 Yeaman Shore

Dundee DD1 4BJ

Solicitor Occupation