



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: G33/82/12

Re : Property at 75 Loretto Street, Glasgow G33 3BX ("the Property")

Title No: GLA47879

The Parties:-

Stephen McCullagh, 105 Gartcraig Road, Riddrie, Glasgow G33 2RY ("the Landlord")

Ian Allan, 75 Loretto Street, Glasgow G33 3BX ("the Tenant")

NOTICE TO STEPHEN McCullagh ("the Landlord")

Whereas in terms of their decision dated 28 September 2012, 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 water tight and in all other respects fit for human habitation; and
- (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

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 replace the defective wc pan, including the toilet seat; and
- (b) to carry out such repairs or replacements as are necessary to ensure the windows to the front of the house are wind and water tight.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 6 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 page are executed by George Barrie Clark, solicitor, Edinburgh chairperson of the Private Rented Housing Committee at Edinburgh on 28 September 2012 before this witness:-

V Clark witness

G Clark chairman

MARGARET EDZARDH JANE CLARK name in full

7 NEWBATHIE TERRACE Address

EDINBURGH

SCHOOL TEACHER



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

prhp Ref: prhp/G33/82/12

Re : Property at 75 Loretto Street, Glasgow G33 3BX ("the Property")

The Parties:-

Ian Allan, 75 Loretto Street, Glasgow G33 3BX ("the Tenant")

Stephen McCullagh, 1 Gartcraig Road, Riddrie, Glasgow G33 2RY ("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) of the Housing (Scotland) Act 2006 in relation to the house concerned, and taking account of the evidence led by 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 17 April 2012, 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 fit for human habitation; and
 - (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
3. By letter dated 6 July 2012 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. Following service of the Notice of Referral the Tenant (by letter dated 10 July 2012), made written representations to the Committee. The Landlord made no written representations to the Committee following service of the Notice of Referral, but sent an e-mail to the Private Rented Housing Panel on 6 June 2012. This e-mail was considered by the Committee at the subsequent hearing.
6. The Private Rented Housing Committee inspected the Property on the morning of 28 September 2012. The Tenant was present during the inspection. The Landlord was not present or represented during the inspection.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Glasgow and heard from the Tenant. The Landlord was not present or represented at the hearing. The Tenant represented himself.
8. The Tenant submitted as follows:- the toilet had been cracked when he moved into the Property and he was of the view that it resulted from the toilet having been screwed too tightly to the floor. The toilet seat was not secure and was squint. He (the Tenant) had stained the window sills to the front of the Property after the front wall had been re-rendered and insulation fitted, as the windows had not been attended to by the Landlord at that time. Water was now getting through the rotten sills to the inside of the Property. He (the Tenant) had had an infestation of black fly in the summer months, but had accidentally deleted on his digital camera the photographs that he had taken showing the extent of the infestation.
9. The Landlords was not present at the hearing, but, in an e-mail of 6 June 2012, submitted as follows:- the toilet pan was not broken when the Tenant moved in and must have been damaged by the Tenant. The Tenant must also have been responsible for any infestation by black fly, as his (the Landlord's) research indicated that such an infestation could be caused by rotting fruit, uncovered food or house plants. He (the Landlord) had hoped to replace the windows during this year, but had not had funds to do so, but he contended the windows were wind and water tight.

Summary of the issues

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

Findings of fact

11. The Committee finds the following facts to be established:-
 - The tenancy is a Short Assured Tenancy.
 - The toilet is cracked and inadequately secured to the floor.
 - The windows to the front of the Property show signs of lack of maintenance and are in a deteriorated condition. Timbers are decayed and part-missing.
 - There were no indications at the time of the inspection, of a significant infestation of black fly.

Reasons for the decision

12. The Committee was unable to determine whether the crack in the toilet predated the tenancy, but concluded that, as there was no evidence to suggest the damage was attributable to the Tenant, the liability to repair it rested with the landlord. It did not meet the repairing standard in that it formed part of the installations in the house for sanitation and was not in a reasonable state of repair. The condition of the windows was such that the house was not wind and water tight, so failed to meet the repairing standard.

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.

Signed **G Clark** 28 September 2012
Chairperson