



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

prhp Ref: RP/PRHP/RP/15/0302

Re : Property at Flat 2/R, 19 Brown Constable Street, Dundee, DD4 6QZ (**"the Property"**)

The Parties:-

Mr Jordan Scroggie residing at the Property (**"the Tenant"**)

John Street (Scotland) Limited, 14 Braeside, Auchterhouse, Dundee, DD3 0QQ (represented by their Director) Mr Graeme Carling (**"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 not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 05 October 2015 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 aspects 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.
3. By letter dated 02 February 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 Tenants.

5. Following service of the Notice of Referral the Landlord (by letter dated 04 February 2016) made written representations to the Committee. The Landlords (by email dated 08 February 2016) sought a postponement of the inspection and hearing due to the non availability of Mr Carling. After considering the Landlord's request the Committee consented to an adjournment until 26 April 2016. The Committee also issued a Notice of Direction to the Landlord on 08 March 2016 requiring the Landlord to provide a valid Electrical Installation Condition Report by a suitably competent person registered with NICEIC or SELECT. The Landlord was required to provide said report no later than 08 April 2016. The Committee received the report on 06 April 2016.
6. The Committee received a letter from the Tenant's representative dated 29 February 2016 requesting that the Hearing be brought forward as the Tenant had a Decree of Eviction granted against him and might be evicted prior to the Hearing fixed for 26 April 2016. The Committee gave consideration to the Tenant's request but were unable to bring forward the Hearing to a date that was suitable for the parties and the Committee. The Committee were advised by the Landlords by email dated 06 April 2016 that the Tenant had vacated the property. As the tenancy had ended the Committee considered whether it was appropriate that the application be withdrawn. The Committee decided that it was the public interest to continue to determine the application. The Committee issued a Minute of Continuation dated 13 April 2016.
7. The Private Rented Housing Committee inspected the Property on the morning of 26 April 2016. The Committee comprised Graham Harding, Legal Chairperson and Andrew Taylor, Surveyor Member. The Landlord was present during the inspection.
8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Dundee and heard from the Landlord. The Tenant attended the Hearing as an observer.
9. The Landlords submitted as follows:- the Landlord had purchased the property as part of a portfolio of properties in April 2015. At that time the Surveyors, DM Hall Dundee had produced a report and did not indicate that there were any problems with the property. Mr Carling for the Landlord stated that following a complaint made by the Tenant in the Summer of 2015 repairs were carried out to the property and the Tenant signed a declaration on 03 September 2015 that the repairs had been completed. Mr Carling confirmed that he had provided an appropriate Electrical Installation Condition Report and that as far as he was aware there were no problems with electrics in the property. Mr Carling advised that no specialist work had been carried out in the property and did not believe any specialist treatment had been required. He said that it was not uncommon for properties to have some damp issues when left vacant. He believed that once the property had heating in operation and was being ventilated any damp issues would have been resolved. Mr Carling also said that he had offered to carry out some further works at the property but the Tenant had refused entry. It had taken longer than necessary to have the agreed repairs done as the Tenant had issues with regards to allowing tradesmen access to the property.

Findings of fact

10. The Committee finds the following facts to be established:-

- (a) The tenancy was a Short Assured Tenancy that was terminated following Court proceedings raised by the Landlord in February 2016.
- (b) The Property consists of a one bedroom flat with living room, kitchen and bathroom.
- (c) There was no sign of mould or fungus in the bathroom, bedroom, living room or kitchen (photographs 1 – 8 refer)
- (d) The windows throughout the Property function properly and were wind and water tight.
- (e) The kitchen units were stable and in apparently good order.
- (f) The electrical system in the property is satisfactory.
- (g) The Property has hard wired smoke, heat detectors and carbon monoxide detectors (photographs 12 – 13)

Reasons for the decision

- 11. The Committee's decision was based on the application with supporting documents, the inspection and on the statements made to the Committee by Mr Carling at the Hearing.
- 12. The Committee were unable to note any evidence of the matters complained of by the Tenant in his application.

Decision

- 13. The Committee accordingly determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
- 14. The decision of the Committee was unanimous.

Right of Appeal

- 15. 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

- 16. 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 **D Preston** abandoned or so determined.

G Harding

Signed
Chairperson

..... Date 6th May 2016.....



Flat 2/R 19 Brown Constable Street, Dundee, DD4 6QZ
PRHP/RP/15/0302
Schedule of Photographs - Inspection Date 27/4/2016
Weather – Overcast, rain



1. The Property



2. Bathroom Ceiling



3. Bathroom Ceiling



4. Bedroom Ceiling



5. Living Room Ceiling



6. Living Room Ceiling



7. Bedroom Ceiling



8. Kitchen Ceiling and Window



9. Bedroom Window



10. Living Room Window



11. Bedroom Window



12. Hard Wired Smoke Detector



13. Carbon Monoxide Detector



14. Hard Wired Heat Detector