



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

prhp Ref: PRHP/IV15/34/12

Re: Property at 3 Jindalee Cottages, Dingwall, IV15 9TR ("the Property")

The Parties:-

STEPHANIE MITCHELL residing at 3 Jindalee Cottages, Dingwall, IV15 9TR ("the Tenant")

DINGWALL & HIGHLAND MARTS LIMITED, Humberston, Bailechaul Road, Dingwall, IV15 9TP (represented by their agent Jane Chisholm of Messrs TSH Burns & Sons, Solicitors, 12 High Street, Dingwall ("the Landlords"))

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords 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 the Landlords at the hearing, determined that the Landlords had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 13 February 2012 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords 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 Landlords had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlords had failed to ensure that:-
 - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation; and
 - (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
3. By letter dated 12 March 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 Landlords and the Tenant.
5. Following service of the Notice of Referral the Tenant by virtue of a letter from the Citizens Advice Bureau dated 13 March 2012, made further written representations. The Landlords made written representations to the Committee by way of letters dated 28 March and 4 April both 2012 via their agent.

6. The Private Rented Housing Committee (consisting of Mr E K Miller, Chairman and Legal Member; Mr M Andrew, Surveyor Member; Mrs L Robertson, Housing Member; accompanied by the Clerk, Mr G Thomson) inspected the Property on the morning of 14 May 2012. The Tenant and the Landlords' agent were present during the inspection.
7. Following the inspection of the Property the Private Rented Housing Committee held a Hearing at Dingwall Community Centre, Tulloch Street, Dingwall. The Landlords were not present but were represented by their agent. The Tenant was neither represented nor present during the Hearing.

Summary of the issues

8. The issues to be determined were:-
 - (1) Whether there was rising damp, condensation and mould within the Property sufficient to breach the repairing standard.
 - (2) Whether there was adequate heating within the Property.

Findings of fact

9. The Committee finds the following facts to be established:-
 - There was no rising damp within the Property.
 - Mould was forming on some walls in the Property. The Committee were, however, satisfied that this was not caused by any problem with the Property or a lack of heating but rather a failure on the part of the Tenant to keep the Property properly aired and fired.
 - The Committee were satisfied there was adequate heating in the Property.

Reasons for the decision

10. On 10 May 2012 it was intimated to the Committee that the Landlords and Tenant had reached an agreement between themselves and the Tenant wished to withdraw her application. The Tenant indicated that she would not give access. The Committee in this instance, wished to exercise their right under Schedule 2, Rule 7 of the Act to continue with the case. The Committee felt this was appropriate given that there was an indication of severe rising damp from the reports and that the Property had been deemed not to meet the Tolerable Standard. The intention to continue with the inspection was intimated to the parties and, after some discussion the Tenant allowed access on the day of the inspection.

The Committee based its decision primarily on the evidence obtained during the inspection of the Property. The Tenant lived in the Property along with her partner, a young child and a large number of domestic pets. The Tenant had a significant level of possessions within the Property. The Committee inspected each of the rooms. There was evidence of mould growth on the internal walls and a number of the rooms but primarily in what was the main bedroom (currently used as a store room). Damp meter readings were taken throughout the Property and, other than very small patch of damp beneath the bathroom window there was no evidence whatsoever of any damp. The Committee were of the view that the mould had originated not as a result of any fault on the part of the Landlords or any disrepair within the Property but simply as a result of the lifestyle of the Tenant and a failure to keep the Property properly aired. The main bedroom (now store room) had a significant amount of possessions within it and was not being properly used. Because of the large amount of possessions combined with the number of occupants/animals within the Property, meant that mould growth would be inevitable unless the Property was properly aired. The Committee noted that there was a fire within the lounge and an additional electric fire was also in one of the rooms. The Committee

also understood that the Landlords had more recently delivered additional electric fires to the Tenant. Accordingly the Committee were satisfied that at the date of inspection there was sufficient heating provisions for the Tenant to utilise.

Decision

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

Right of Appeal

- 13. A Landlords 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

- 14. 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 E Miller Date 22/5/12
Chairperson