



Determination by Private Rented Housing Committee

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

Re 12 Murray Crescent, Lamlash, KA27 8NS being the subjects registered in the Land Register of Scotland under Title Number BUT3662 ('the Property')

The Parties:-

Colin MacDonald residing formerly at 12, Murray Crescent, Lamlash, Isle of Arran, KA27 8NS ('The Tenant')

Judith Draycott, Homes on Arran, The Douglas Centre, Brodick, KA27 8AJ ('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 ("the Act") in relation to the Property, determined that the Landlord has NOT failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 23rd 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 Act.
2. The application by the Tenant stated that he considered that the Landlord had failed to comply with their duty to ensure that the Property meets the repairing standard. He advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation; that the structure and exterior of the Property was not in a reasonable state of repair and proper working order; that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order.

In particular the application stated that the nature of the work which he considered required to be done was:-

- 2.1 Replacing flooring of living room.
- 2.2 Making good the hole in the facing
- 2.3 Repairs to prevent water leaking from the roof.
- 2.4 Full survey and acting on its recommendations to remedy dampness.
- 2.5 Remedy dampness in the kitchen area.
- 2.6 Bedroom and bathroom found to be three times above the acceptable standard of moisture.
- 2.7 Garage area to be condemned due to water leakage.
- 2.8 Kitchen area beyond reasonable draft proofing standard.
- 2.9 Electricity supply interrupted by feed to garage, which is now water logged.
- 2.10 Guttering blocked and needs replacing.

2.11 Unsafe and broken structure throughout the house, including ceiling in living room area, various doors and window lintels, and general condition of the building structure.

2.12 Groundwork and fencing works a hazard.

3. The President of the Private Rented Housing Panel, having considered the application, referred 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, dated 10th May 2012.
5. The Committee attended at the Property on 25th July 2012. The Landlord was present at the inspection. The Tenant had previously vacated the property and was not present.

The Committee inspected the alleged defects and found as follows:-

5.1 Replacing flooring of living room.

The Committee saw that the living room floor was carpeted and the stramet flooring below the carpet appeared secure. The Landlord explained that there had been a hole in the stramet boards but the defective boards had been replaced.

5.2 Making good the hole in the facing

The Landlord showed the Committee the repair that had been carried out to the fascia and the Committee agreed that the fascia had been satisfactorily repaired.

5.3 Repairs to prevent water leaking from the roof. Full survey and acting on its recommendations to remedy dampness; Remedy dampness in the kitchen area and Bedroom and bathroom found to be three times above the acceptable standard of moisture.

The Committee examined the ceilings and walls of all of the rooms of the Property and found no evidence of dampness, mould or mildew.

5.4 Garage area to be condemned due to water leakage.

The Landlord advised that the Garage was not included in the lease.

5.5 Kitchen area beyond reasonable draft proofing standard.

The windows in the kitchen were double glazed units which were in good condition and were draught proof. There was a small gap between the backdoor and the door frame but this was not sufficient to result in the door not being wind and water tight.

5.6 Electricity supply interrupted by feed to garage, which is now water logged.

The Landlord emphasised that the garage had not been included in the leased subjects and she confirmed that the electrics in the garage had been disconnected by her husband who was a qualified electrician.

5.7 Guttering blocked and needs replacing.

The Landlord advised that the gutters had been cleared in February/March this year. The Committee noted that the gutters appeared to be clear and in a reasonable state of repair.

5.8 Unsafe and broken structure throughout the house, including ceiling in living room area, various doors and window lintels, and general condition of the building structure.

The Committee saw no evidence of these alleged defects.

5.9 Groundwork and fencing works a hazard.

The garden of the Property was landscaped and in a reasonable condition. The fencing was also in a reasonable state of repair.

6. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Council Offices, Lamplash. The Landlord attended the hearing. The Tenant did not attend.

The Committee advised the Landlord that they had found no evidence at the inspection to support the Tenant's application. They acknowledged that a number of repairs had been carried out to the Property and they confirmed that the items listed in the Tenant's application complied with the Repairing Standard.

Decision

7. The Committee accordingly determined that the Landlord had NOT failed to comply with the duties imposed by Sections 13 (1)(a), 13(1)(b), 13(1)(c), and 14 of the Act, as stated.

8. The decision of the Committee was unanimous.

Right of Appeal

9. 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

10. 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.

J Taylor

Signed Date 26th July 2012
Chairperson