



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

prhp Ref: PRHP/RP/13/0128

Re: Property at Plum Cottage, Abernyte, Perthshire, PH14 9ST ("the Property")

The Parties:-

MS LYNN YOUNG formerly residing at Plum Cottage, Abernyte, Perthshire, PH14 9ST ("the Tenant")

MR AND MRS JOHN McAVOY, spouses residing together at 14 Castle Road, Longforgan, Dundee, DD2 5HA, represented by their agent Mr Allen Smith of 9 Percent Property Management ("the Landlord")

### Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, 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 27 October 2013 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 their duty to ensure that the house met 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;
  - (b) The structure of 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;
3. By letter dated 13 November 2013 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 made further written representations to the Committee and copied the Committee into all ongoing correspondence between herself and the Landlords agent. The Landlord's agent, by letter dated 21 November 2013, made written representations to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 24 January 2014. The Committee comprised Mr E K Miller, Chairman and Legal Member; Mrs G Wooley, Surveyor Member; and Mr D Hughes-Hallet, Housing Member. The Tenant was not present, having vacated the Property. The Landlord's agent was present.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Douglas Community Centre, Dundee and heard from the Landlord's agent. The Tenant was not present or represented.
8. The Tenant's submission was that she had been greatly inconvenienced by problems at the Property. The primary difficulty had been in relation to the gas tank/central heating system which had failed to work on numerous occasions throughout her time in the Property. The Tenant also complained that there was damp throughout the Property. The Tenant had also been concerned regarding the washing machine, unsafe bathroom fittings and various other issues as set out in her correspondence.
9. The Landlords agent submitted that they accepted that there had been a problem in relation to the gas tank/central heating at the Property. This had resulted in the Tenant being left without hot water and heating on several occasions. Whilst it had taken some time to identify the cause of the difficulty this had now been done and the system was working properly. The Landlords agent submitted that the other items complained of were not breaches of the repairing standard and there had been no other real issues with the Property.

#### **Summary of the issues**

10. The issues to be determined were:-
  - (1) Whether the gas tank/central heating system at the Property was in proper working order and met the repairing standard.
  - (2) Whether the washing machine was in proper working order.
  - (3) Whether the Property was suffering from damp.
  - (4) Whether the bathroom fittings were unsafe.
  - (5) Whether the presence of a slug in the Property had been due to damp.
  - (6) Whether the door handles in the Property (particularly the main bedroom) were in proper working order and met the repairing standard.

#### **Findings of fact**

11. The Committee found the following facts to be established:-
  - 1) The central heating and hot water system was in proper working order.
  - 2) There was no danger of flooding from the washing machine.
  - 3) The Property was not damp.
  - 4) The bathroom fittings were safe.

- 5) The presence of a slug was not due to damp but simply an occasional hazard of living in the country.
- 6) The door handles within the Property were in proper working order.

#### **Reasons for the decision**

12. The Committee based its decision primarily on the evidence it obtained during the course of its inspection of the Property.

The Committee inspected the gas tank and boiler. New tenants had moved into the Property and had been resident for approximately 5 weeks. The Property was warm and all the radiators appeared to be in proper working order. The current tenants confirmed that they had no difficulties in operating the system and that it had worked on all occasions. The Committee inspected the gas tank. Some new piping and a new gauge had fitted to it and the tank was nearly full. It appeared that this may have been the cause of the difficulty as the system may not have been showing the correct amount of gas that was available previously. The Committee also inspected the boiler and it appeared to be in proper working order. Whilst the system was somewhat cumbersome (with the boiler and the tank being at opposite ends of the house) nonetheless the system seemed to be in proper working order and met the repairing standard.

The Committee inspected the washing machine. The Landlord agent had advised that to properly check the washing machine it had been necessary to move a side panel to get the washing machine out. The Tenant had been unwilling to allow this. Upon the Tenant vacating the Property, this had been done and the tradesman had found no issue with the washing machine. The new tenants also confirmed that they had been using the washing machine most days since they had moved in without any difficulty. Accordingly the Committee was satisfied that there was no issue with the washing machine.

The Committee inspected the Property throughout. There was no evidence of any damp. The Committee was satisfied that the Property was not suffering from damp.

The Committee inspected the bathroom. Whilst this was a compact bathroom it was serviceable and there did not appear to be any unsafe bathroom fittings. The Committee did note that there was a small piece of wood between the pedestal and the basin of the sink itself. However the Committee was satisfied that this, whilst not particularly attractive, was not a breach of the repairing standard.

The Committee noted that a slug had apparently managed to find its way into the house. The Property was located in an isolated country area. Occasional intruders such as a slug or mouse would happen. The Committee did not view this as a breach of the repairing standard.

The Committee also inspected the door to the bedroom. This appeared to be in proper working order and met the repairing standard.

The Committee did not perceive any other defects with other door handles within the Property.

The Committee considered the position as to whether the Property met the repairing standard. The Committee were satisfied that there were no material defects within the Property that justified a finding of a breach of the repairing standard. Whilst it was perhaps unfortunate that the Tenant had suffered so extensively from the heating difficulties, nevertheless, at the date of inspection the Property met the repairing standard. The Committee noted that the Tenant had requested compensation for her inconvenience and discomfort. The ability to give compensation fell outwith the jurisdiction of the Committee. The Committee was merely able to determine whether, on the day of inspection, whether the Property met the repairing standard or not. As stated

above, the Committee was satisfied that the Property met the repairing standard and that this was, therefore, an end to the matter insofar as the Committee was concerned.

**Decision**

13. The Committee accordingly determined that the Landlords 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 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**

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 appeal is abandoned or so determined.

Signed E Miller ..... Date 17/2/14 .....  
Chairperson