



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

prhp/EH7/13/13

Re: The residential dwellinghouse at

**40 Claremont Court
Edinburgh
EH7 4LA**

("the Property")

The Parties:-

**Ms Gloria Avila and Mrs Ana Ruiz
formerly resident at the Property**

("the Tenants")

and

**Ms Alice Bell Davidson
C/o ACE Property Management Ltd
175 Brunnsfield Place
Edinburgh
EH10 4DG**

("the Landlord")

The Committee comprised:

**Mr Ron Handley – Chairperson
Mr Donald Marshall – Surveyor
Mr John Blackwood – Housing Member**

The Committee's 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) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, and taking account of the evidence before it, unanimously determined that the Landlord had complied with the duty imposed by Section 14(1) (b).

Background

1. On 19 January 2013 the Tenants applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlord had failed to comply with the duties imposed by Section 14(1) (b) of the Act.
2. Following receipt of the application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee in accordance with Section 22(1) of the Act.
3. The PRHP subsequently received confirmation that the tenancy of the Property had been lawfully terminated and accordingly, under Schedule 7(1) of the Act the application was treated as having been withdrawn. However given the nature of the allegations, the President of the PRHP decided that it was appropriate to continue to determine the application.

The Application

4. In their application the Tenants alleged that the Landlord had failed to comply with the duty to ensure that the Property met the Repairing Standard (as defined in the Act). It was submitted that the structure and exterior of the Property was not in a reasonable state of repair and not in proper working order. It was also submitted that Landlord had failed to ensure that the Property was wind and water tight and in all respects reasonably fit for human habitation. It was also suggested that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water were not in a reasonable state of repair and not in proper working order and that some of the fixtures, fittings and appliances were not capable of being used safely.
5. In particular the Tenants submitted in their Application Form that:
 - (i) the walls were not isolated and the bedroom walls were covered with fungus and damp and that water was coming in through the exterior walls;
 - (ii) the central heating wasn't working properly;
 - (iii) the fridge/freezer was old and in a bad condition;
 - (iv) the sinks were stuck;
 - (v) the external front door and the balcony door were not properly fitted.

The Evidence

6. The Committee had before it documents which included Land Register documents, the Tenancy Agreement, a copy of the Application Form,

responses from the Tenant and the Landlord and copies of various e-mails.

The Inspection

7. The Committee inspected the Property on 29 April 2013 at 10.00am. The Landlord was not present at the inspection but was represented by Mr Stuart Johnson and Mr Alan Nash.

The Hearing

8. A Hearing was arranged to take place after the inspection at 11.00am in Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD. The Landlord did not attend the Hearing but was represented by Mr Stuart Johnson and Mr Alan Nash.

Summary of the issue

9. The issue to be determined by the Committee was whether the Landlord had complied with the requirements of the Act to ensure that the Property met the Repairing Standard.

Findings

10. The Committee found the following facts to be established:
 - On 28 June 2012 the Tenants and the Landlord entered into a Tenancy Agreement that related to the Property. The Tenancy Agreement was subsequently lawfully terminated.
 - The walls in the bedroom in the Property are dry and there is no evidence of fungus or dampness in the walls. There is no evidence of water ingress.
 - The Property is heated by a gas central heating system which is in a reasonable state of repair and in proper working order.
 - The fridge is in a reasonable state of repair and is in proper working order (including the ice box).
 - The drains in the sink are in proper working order.
 - The external front door and the balcony door fit properly and are wind and water tight.

Reasons for the Decision

11. As indicated, the Tenants submitted in their Application Form that there was dampness and fungus in the bedroom walls. It was clear from the inspection that the walls were dry and there was no evidence of fungus. The windows in this bedroom are double glazed and wind and water

tight. There was no evidence of water ingress. Mr Stuart Johnson and Mr Alan Nash suggested that it was likely that any dampness may have been because the Tenants had not ventilated the bedroom properly. The Committee noted that the ventilation grills above the window frames were in a closed position and we accepted that a lack of ventilation could have resulted in condensation in this room.

12. The Property is heated by a gas central heating system. The boiler is located within the bedroom. It was clear from the inspection that the central heating system was in a reasonable state of repair and in proper working order.
13. The Committee noted in the course of the inspection that the fridge and the ice box were in a reasonable state of repair and in proper working order.
14. The Committee noted in the course of the inspection that the outlet pipe in the sink was in proper working order.
15. It was clear from the inspection that the balcony door and the front external door were wind and water tight. We had no hesitation in finding that both doors were in a reasonable state of repair and in proper working order. They meet the Repairing Standards.

Decision

16. The Committee determined that the Landlord had complied with the duty imposed by section 14(1)(b) of the Act.
17. The decision of the Committee was unanimous.

Right of Appeal

18. A Landlord(s) or Tenant (s) aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63

19. 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. 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 **R Handley** Date 8 May 2013

Chairperson