



## 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 25 Cherrywood Road, Elderslie, Johnstone, PA5 9EE being the subjects registered in the Land Register of Scotland under title number REN113154 ('the Property')

#### The Parties:-

Mrs Davina Dunn, residing formerly at 25 Cherrywood Road, Elderslie, Johnstone, PA5 9EE and now at 6 Grahamston Park, Barrhead, Glasgow, G78 1NJ ('The former Tenant')

Mark Middleton, Margaret Georgina Middleton as partners of and Trustees for the Firm of Middleton Properties sometime of Braeview Place, Nerston Industrial Estate, East Kilbride and now of 1, Woodvale Avenue, Glasgow, G46 6RQ ('The Landlord')

REF:PRHP/RP/15/0220

#### 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 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 4<sup>th</sup> August 2015 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords have 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 she considered that the Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. She advised 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 in proper working order; Any fixtures, fittings and appliances provided by the Landlords under the tenancy are not in a reasonable state of repair and proper working order; Any furnishings provided by the Landlords under the tenancy are not capable of being used safely for the purposes for which they are designed and the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

In particular the application stated:-

'Serious defect on the stairwell of the property, on investigation found to be cracked which is resulting in it being potentially unsupported and subject to stair sagging and depressing when being stepped on.

Landlords first notified in April- no response to email; letter, text or phone calls. I have since found out that she had not re-registered as a landlord with the local authority. She did contact me out of the blue beginning of June to advise that she was in financial difficulties and the properties were being taken over by the bank and if I could arrange for a joiner? When I advised no she said that she would contact someone and we would be in touch- nothing despite me phoning, emailing and texting.'

Nature of the work required:

'Joiner required for the stairwell.

Guttering requires to be cleaned.

Windows are very draughty and I had to renew a handle myself to allow me to close it (it had been damaged for 6 years).'

3. The Tenant had notified the Landlords of the alleged defect to the stair by letter of notification dated 9<sup>th</sup> August 2015. She confirmed by email dated 31<sup>st</sup> August 2015 that she wished the application to be progressed on the non repair to the stair only. The Tenant advised by email dated 1<sup>st</sup> September 2015 that she vacated the property the previous day.
4. Maurice O'Carroll, Convenor of the Private Rented Housing Panel, with delegated powers, considered the application and determined on 4<sup>th</sup> September 2015 that the application should be determined on health and safety grounds in terms of schedule 2 Paragraph 7(3) of the Housing (Scotland) Act 2006.
5. Thereafter the President of the Private Rented Housing Panel referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
6. The Committee members were Jacqui Taylor (Chairperson), Ian Mowatt (Surveyor Member).
7. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the parties dated 2<sup>nd</sup> October 2015.
8. The Committee first attended at the Property on 13<sup>th</sup> November 2015 but access was not provided. The Committee intimated to the Landlords by letter dated 16<sup>th</sup> November 2015, which letter was served by Sheriff Officers, that access would be required on 10<sup>th</sup> December 2015 at 10am. The Committee attended at the Property on 10<sup>th</sup> December 2015. The Landlords' representative allowed access to the Property.

The Property is a two storey, plus attic, mid terraced town house with integral garage built by Barratt Homes Limited circa 2003.

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

#### 7.1 Damage to the stair.

The alleged defective stair is the first flight of stairs in the Property. The stairs had been repaired and carpeted. The surveyor member of the Committee looked in the under stair cupboard and saw that plaster board had been installed to the ceiling of the cupboard so it was not possible to view the repair that had been carried out to the stair case. However there was no sign of movement or sagging of the stair.

#### 7.2 Smoke Alarms.

The Committee also noted that there are two hardwired smoke alarms in the Property.

Photographs were taken during the inspection and are attached as a Schedule to this report.

8. Following the inspection of the Property the Private Rented Housing Committee went to the scheduled hearing in the PRHP offices at Wellington House, 134- 136 Wellington Street, Glasgow, G2 2XL. The parties did not attend and were not represented.
9. **Findings**

The Committee determined that the first flight of stair in the Property is in a reasonable state of repair and in proper working order.

**10. Decision**

The Committee accordingly determined that the Landlords have not failed to comply with the duties imposed by Section 14(1(b), of the Act.

11. The decision of the Committee was unanimous.

**Right of Appeal**

**12. 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**

13. 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 ..  
Chairperson

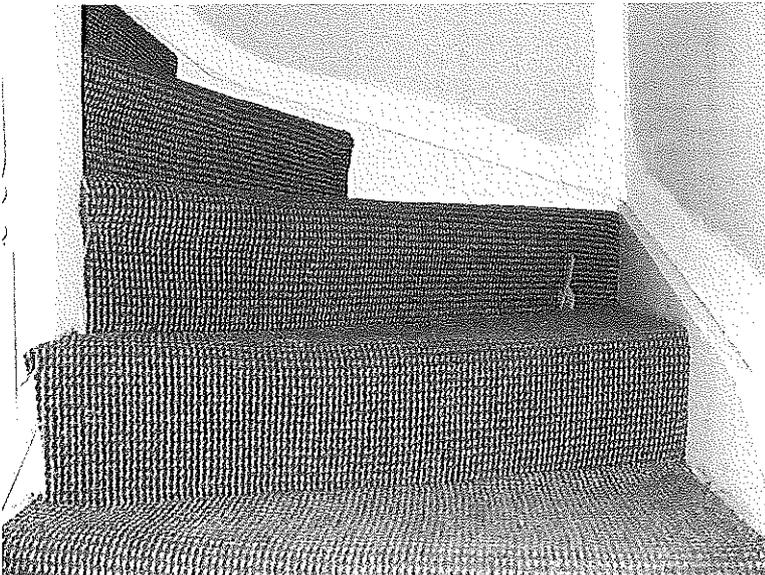


..... Date 12<sup>th</sup> December 2015

Schedule of Photographs

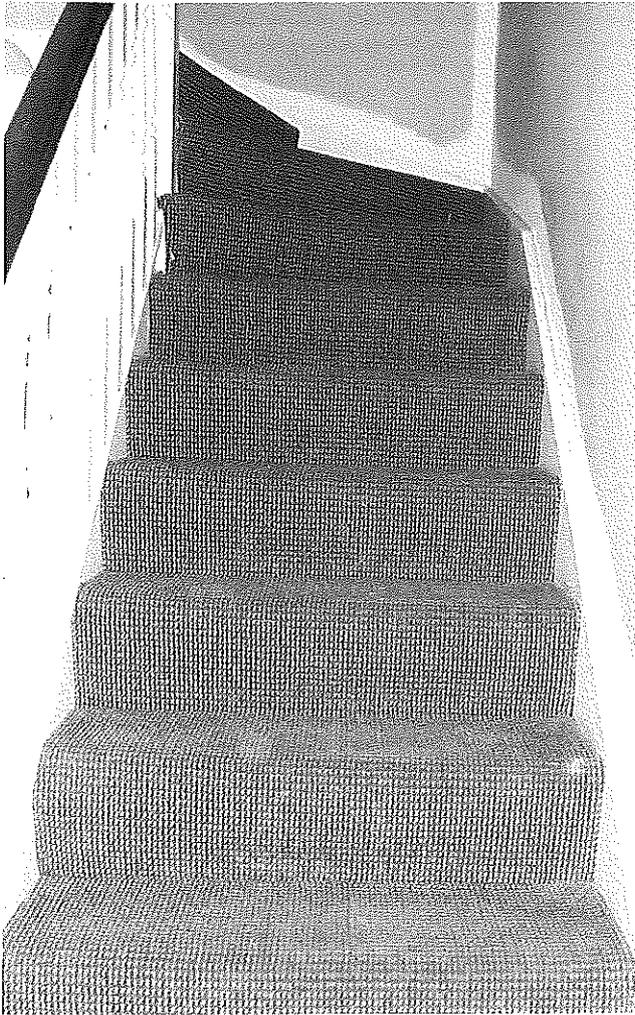


1: Front elevation



2b: Staircase showing area of repair

Schedule of Photographs



3: Staircase from ground floor