



**PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF DECISION**

PROPERTY:

2 Allangibbon Cottages, Dalry, Castle Douglas, DG7 3SR

INSPECTION & HEARING

24th September, 2009

STATEMENT OF DECISION

INTRODUCTION

1. This is an application dated 6th January, 2008 ('the application') made under section 22(1) of the Housing (Scotland) Act 2006 ('the Act') by Miss Nicola Kenyon ('the tenant') regarding the property known as and forming 2 Allangibbon Cottages, Dalry, Castle Douglas, DG7 3SR ('the property'). There is an error on the date of the application as this should actually read 2009. The landlord of the property is Lord Sinclair ('the landlord') of Knocknalling Estate, St. John's Town of Dalry, Castle Douglas, DG7 3ST.

2. In the application the tenant contends that the landlord has failed to comply with the duty imposed on him by section 14(1)(b) of the Act as the property fails to meet the repairing standard as set out in section 13(1) of the Act.

3. The tenant ceased occupation of the property and their tenancy expired on 7th August, 2009. In terms of section 7(1) of schedule 3 of the Act the tenancy is considered to have been withdrawn. Notwithstanding this, the Committee can continue to determine the application in terms of section 3(b)(i) of the Act. The Committee proceeded to make such a determination.

4. The Committee comprised

Chairman	Mr. Steven Walker
Surveyor	Mr George Campbell
Housing Member	Mr Jim Riach

The Committee was assisted by the Clerk to Committee, Mr. Robert Shea.

THE DOCUMENTATION

5. The Committee considered all the documents referred to it by the parties. In particular, the application; the tenancy agreement; the exchange correspondence between the parties and the written representations from both the tenant and landlord.

THE INSPECTION

6. The inspection took place on 24th September, 2009. Only the landlord attended the inspection.
7. Mr Robert Shea, Clerk to Committee, introduced the Committee to the landlord and the Committee proceeded to inspect the property.

DESCRIPTION OF THE PROPERTY

8. The property is one of four estate style attached cottages apparently constructed during the 19th century. The property comprises of sitting room with multi stove, dining room, kitchen, entrance hall with under stair cupboard and mains smoke alarm, master bedroom, spare bedroom (which has some minor damp), bathroom with bath and mira shower, upstairs hall with two internal cupboards (one of which walk in which has some minor damp) and mains smoke alarm. Radiators throughout. The property was recently decorated throughout, walls and windows were all painted and a new wash hand basin installed in the bathroom. On the outside the crack on the veranda has been repaired and drains and external structure of the building appeared to be in a good state of repair.

THE HEARING

9. The hearing took place at Castle Douglas Town Hall on 24th September, 2009. Only the landlord attended the hearing. The tenant's

complaint that the landlord had failed to meet the repairing standard is detailed in section 4 of the application where she states;-

“House has no heating upstairs. Windows are single glazed and are rotten. Windows and doors are draughty and have gaps in them. The walls are damp. Gutters blocked and broken. Radiators are rusty and leaking. No insulation in the house whatsoever. Carpets that were ripped where full of excrement and urine and were ripped. Didnt even cover the floor. Fire alarms broke. Floor boards uneven and are in a state. Fire is broken.”

10. The landlord submitted to the Committee that the property met the repairing standard in every respect and further that the Committee should proceed to dismiss the application.

THE ACT

11. Section 14(1)(b) of the Act provides;-

“14 Landlord's duty to repair and maintain

(1) The landlord in a tenancy must ensure that the house meets the repairing standard—

- (a) at the start of the tenancy, and*
- (b) at all times during the tenancy.”*

12. Section 13 of the Act provides;

“13 The repairing standard

(1) A house meets the repairing standard if—

- (a) the house is wind and water tight and in all other respects reasonably fit for human habitation,*

(b) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,

(c) the installations in the house 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,

(e) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed, and

(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.”

FINDINGS OF FACT & REASONS

13. The complaint before the Committee as per the tenant's application and our determinations in relation to this are as follows:-

(a) House has no heating upstairs

Since the tenant ceased occupation in the property the landlord has extended the central heating upstairs and there is now a radiator in each of the upstairs rooms. The landlord advised the Committee that this is in working order. Therefore, the Committee determines that the central heating system is in a reasonable state of repair and proper working order.

(b) Windows are single glazed and are rotten

The windows are single glazed, but were recently painted and show no evidence of rot. Therefore, the Committee determines that the property is wind and water tight and reasonably fit for human habitation.

(c) Windows and doors are draughty and have gaps in them

The Committee did not see any evidence of this and therefore determines that the property is wind and water tight and reasonably fit for human habitation.

(d) The walls are damp

The Committee observed some damp in the second bedroom and also in the walk in cupboard upstairs, but considered this minor and insufficient to result in a determination that the property was not wind and water tight and reasonably fit for human habitation. Therefore, the Committee determines that the property is wind and water tight and reasonably fit for human habitation.

(e) Gutters blocked and broken

The Committee did not see any evidence of this and therefore determines that the gutters are in a reasonable state of repair and in proper working order.

(f) Radiators are rusty and leaking

The Committee did not see any evidence of this and therefore determines that the radiators are in a reasonable state of repair and in proper working order.

(g) No insulation in the house

As regards insulation, the obligation incumbent upon the landlord is to ensure that the property is wind and water tight and reasonably fit for human habitation. There is no evidence to suggest to the contrary and therefore the Committee determines that the property is wind and water tight and reasonably fit for human habitation.

(h) Carpets that were ripped where full of excrement and urine and were ripped

There were no carpets in any part of the property. Therefore the Committee makes no determination in relation to this matter.

(i) Fire alarms broken

There were two mains fire alarms in the property in the entrance hall and upstairs hall. Both fire alarms worked on testing by the Committee. Therefore the Committee determines that the property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

(j) Floor boards uneven and are in a state

The Committee did not see any evidence of this and therefore determines that the floor boards are in a reasonable state of repair and in proper working order.

(k) Fire is broken

The Committee did not see any evidence of this and were advised by the landlord that this was in working order and therefore determines that the fire is in a reasonable state of repair and in proper working order.

SUMMARY OF DECISION

14. The Committee accordingly determines that the landlord had not failed to comply with the duty imposed by section 14(1)(b) of the Act. The Committee accordingly dismisses the application.

RIGHT OF APPEAL

15. A landlord or tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

EFFECT OF APPEAL

16. In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

S Walker

Signed ✓

Steven P Walker
Advocate & Barrister

Chairman
Private Rented Housing Committee

10th October, 2009