



PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

PROPERTY:

35 Gibraltar Gardens, Dalkeith, Midlothian, EH22 1EG



Decision by the Private Rented Housing Committee

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

PRHP/EH22/84/13

Title Number: MID73174

Re: The residential dwellinghouse at

**35 Gibraltar Gardens,
Dalkeith,
Midlothian
EH22 1EG**

("the Property")

The Parties:-

Ms Sara Jane Simkin formerly resident at the Property

("the Tenant")

and

**Mr S Koulis and Mrs L Koulis
10 Crookston Court
Inveresk
EH21 7TR**

("the Landlords")

The Committee comprised:

Mr Ron Handley – Chairperson
Mr Donald Marshall – Surveyor
Mrs Christine Anderson – Housing Panel Member

The Committee's Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords 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 Landlords had complied with the duty imposed by Section 14(1)(b).

The Background

1. On 22 April 2013 the Tenant applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlords 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 Committee subsequently received confirmation from the Tenant that her tenancy of the Property had been terminated and that she would be leaving the Property on or around 8 July 2013. Accordingly, under Schedule 7(1) of the Act, the Tenant was treated as having withdrawn her application under Section 22(1) of the Act. The Committee then considered the application and whether it should be determined or be abandoned. Within the application the Tenant alleged that repairs required to be carried out to the Property which, if substantiated were likely to raise potential health and safety issues for occupants and issues as to whether the Property was fit for human habitation. Given the nature of these allegations the Committee considered that the application should be determined on public interest grounds. A Minute of Continuation to a Determination (being a decision under under Schedule 2, Paragraph 7(3) of the Act) was sent to the Landlords.
4. The Committee duly attended at the Property on 3 September 2013 at 10.00 am. Ms J Thomson, Clerk to the Committee was present at the Hearing as was Mr S Koulis (the Landlord). Also present was Mr Charles Thomas, a Surveyor Member who was observing proceedings.

The Application

5. In her application the Tenant submitted that the Landlords had failed to comply with their duty to ensure that the Property met the Repairing Standard (as defined in the Act). It was suggested that the Landlords had failed to ensure that the Property was wind and watertight and in all other respects fit for human habitation. It was also submitted that the structure and exterior of the Property was not in a reasonable state of repair and not in proper working order.
6. In particular the Tenant submitted in her Application Form that :-
 - there was penetrating damp in the front room, rising damp in the back room and mould covered walls around the room and in the cupboard;
 - mould was on her belongings;

- there was woodlice infestation and evidence of woodlouse spiders;
- the outside walls were in need of repair;
- the back garden had never been cleaned.

The Evidence

7. The Committee had before it various documents which included the Land Register documents, a copy of the Application Form, copies of various letters from and to the Tenant and the Landlords and a copy of the Minute of Continuation to a Determination.

The Inspection

8. As indicated the Landlord attended the Inspection. The Chairman introduced the Committee to the Landlord and advised him of the issues detailed in the Tenant's application to PRHP.

Summary of the issue

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

Findings

10. The Committee found the following facts to be established:
 - The Property is owned by the Landlords and is a ground floor flat in block of four flats.
 - The Landlords and the Tenant entered into a Tenancy Agreement which related to the Property. That tenancy was terminated and the Tenant's application to the PRHP was treated as having withdrawn under Section 22 (1) of the Act. However the Committee considered that the application should be determined on public interest grounds.
 - There was no mould, woodlice infestation or evidence of woodlouse spiders in any of the walls, ceiling or cupboards within the Property.
 - There is no dampness in any of the internal or external walls in the Property.
 - The outside walls of the Property are in a reasonable state of repair.
 - The garden (which relates to the Property) is reasonably tidy.
 - The Property meets the standard set out in section 14(1)(b) of the Act.

Decision

11. The Committee determined that the Landlords had complied with the duty imposed by section 14(1)(b) of the Act.
12. The decision of the Committee was unanimous.

Reasons

13. In the course of the Inspection the Committee found;
 - no evidence of mould in any walls, ceiling or cupboards within the Property;
 - no evidence of woodlice infestation or evidence of woodlouse spiders within the Property;
 - no evidence of dampness in any of the internal or external walls in the Property. This was confirmed by testing the relevant areas with a Protimeter;
 - that the outside walls of the Property (and those of the flat immediately above the Property) were in a reasonable state of repair;
 - that the garden (which relates to the Property) was reasonably tidy.

Right of Appeal

14. A Landlord(s) or Tenant 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.

Signed **R Handley** Date 11 September 2013
Chairperson