



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

prhp Ref: PRHP/AB24/9/11

Re: Property at 83 Jute Street, Aberdeen, AB24 3HA ("the Property")

The Parties:-

SAMUEL OGBODO and EZENWAMMADU NONO formerly residing at 83 Jute Street, Aberdeen ("the Tenants")

GULZAR AHMED GEHLAN residing at 11A Powis Crescent, Aberdeen, AB24 3YS ("the Landlord")

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 house concerned, and taking account of the evidence led by both the Landlord and the Tenants at the hearing, 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 13th January 2011 the Tenants 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 Tenants stated that the Tenants considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord 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 Landlords under the tenancy are in a reasonable state of repair and in proper working order;
 - (e) Any furnishings provided by the Landlords under the tenancy are capable of being used safely for the purpose for which they are designed;
 - (f) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

3. By letter dated 7th March 2011 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 Tenants.
5. Following service of the Notice of Referral the Tenants made further written representation to the Committee on 21st March 2011. The Landlord made no written representations to the Committee.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member; Mr C Hepburn, Surveyor Member; and Mrs L Robertson, Housing Member accompanied by the Clerk, Mr R Shea) inspected the Property on the morning of 10th May 2011. The Tenants were not present. The Landlord was present during the inspection.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Rubislaw Church Centre, 1 Beaconsfield Place, Aberdeen. The Landlord was present and represented himself. The Tenants were not present at the Hearing. The Committee noted the representations contained in their application and their letter of 21st March 2011. The Tenants were complaining about a variety of issues such as a large hole in the lounge wall, which, they alleged, afforded an opportunity for the invasion of snakes into the Property, a lack of smoke alarms, various electrical defects and a number of complaints regarding furniture at the Property. The Tenants allegation was that when they first inspected the Property the Landlord promised to replace various items of furniture. This had still not occurred when they moved in and the Landlord then failed to do this.
8. The Landlord submitted that a lot of the damage to the Property was carried out by the Tenants. He had let the Property to two tenants but in actual fact he was convinced that a third party had also moved in and this had contributed to wear and tear. There had been some discussions regarding repairs to parts of the Property and the Landlord had, for example, put down new flooring in the kitchen and bathroom. The Tenant had removed various items of furniture. The Landlord had agreed, at one point, to reimburse the Tenants for these but they were never able to produce receipts or confirm where they had purchased the items from.

Summary of the issues

9. The issues to be determined are:-
 - (a) Whether the hole in the lounge wall breached the repairing standard.
 - (b) Whether the door handle to enter the Property breached the repairing standard.
 - (c) Whether there was an adequate smoke detection system.
 - (d) Whether any items of furniture required to be repaired or replaced.
 - (e) Whether the gas meter at the Property was faulty.
 - (f) Whether the socket to the electric oven was working.
 - (g) Whether the windows were wind and watertight.

Reasons for the decision

10. The Committee based its decision primarily on the evidence obtained during the course of its inspection of the Property on 10th May 2011. Generally the Committee were of the view

that whilst the Property was in a poor and unclean condition, it was, nonetheless, generally structurally sound and compliant with the repairing standard.

The Committee inspected the hole in the lounge wall. It was apparent that this had been the site of a former gas/electric fire. The Landlord advised that at the time of the taking of the tenancy the hole had been boarded over although there was a small gap where the flue had been. The Tenants had removed the wood covering the hole. It was apparent that a covering had been present. The Committee were satisfied that it had indeed been the Tenants who had removed this and were therefore not inclined to include this in any Repairing Standard Enforcement Order.

The Committee examined the handle on the entry door to the Property. Whilst this was in poor condition it was in working order. The Landlord advised that some work had been required to the upper lock in the Property and that this was now working smoothly.

The Committee inspected the smoke alarm at the Property. This was a working battery operated smoke alarm. The Landlord advised that the Tenants had done a lot of cooking in the Property and had frequently set off the smoke alarm. When the Tenants had left the Landlord had found the smoke alarm contained within the gas meter cupboard. He had managed to repair this and reinstall it. The Committee were satisfied that this met the repairing standard.

The Committee considered the position regarding the furniture at the Property. It was apparent that various items had been removed from the Property. Some of the items complained of were not listed in the inventory attached the lease. The Committee also noted that the tenancy had now terminated and it was therefore open to the Landlord re-let the Property with or without furnishings. In the circumstances the Committee were of the view that there was little benefit applying a Repairing Standard Enforcement Order to this aspect of the complaint.

The Committee inspected the gas meter at the Property. The Landlord pointed out that this was shut off. There were no gas appliances within the Property. The Landlord thought the Tenants had simply misunderstood the position as it had been many years ago that the gas had been shut off. He had left the meter in so he had the option at a later date of putting gas back in should he wish to. The Committee were satisfied with the Landlord's explanation and therefore saw no need to place a Repairing Standard Enforcement Order on this aspect.

The Committee inspected the socket over the electrical oven. Although this was a far from ideal place for it to be situated, it was in working order and therefore met the repairing standard.

The Committee inspected the windows at the Property. These appeared to be in reasonable working order and therefore the Committee were satisfied that they met the repairing standard.

Overall, whilst the Committee accepted that the Property was dated, in particular both the bathroom and kitchen, and whilst it would benefit from a good clean, nonetheless the Property did appear to meet the repairing standard. It did appear that the Tenants had not treated the Property particularly well during their period of occupation and therefore on balance the Committee did not see any need to place a Repairing Standard Enforcement Order on the Property.

Decision

11. The Committee accordingly determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
12. The decision of the Committee was unanimous.

Right of Appeal

13. A landlord or Tenants 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

14. 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..... *27/5/2011*
Chairperson