

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 : Garden Cottage, Cumloden Estate, Minnigaff, DG8 6AG ('the Property')

The Parties:-

Pamela Freeman and Martin Freeman, Craichlaw Mains Farmhouse, Craichlaw Estate, Kirkcowan, Newton Stewart, DG8 0DQ ('the Tenants')

Andrew C Stewart, Sarasin Asset management limited, Juxon House, 100 St Pauls Churchyard, London, EC4 8BU ('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 Property 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 27th April 2010 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 their duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that (1) the house is wind and watertight and in all other respects fit for human habitation (2) the structure and exterior of the house are in a reasonable state of repair and in proper working order (3) 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 and (4) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. In particular they advised that:-
 - a. The property has many drafts
 - b. The skylight is leaking.
 - c. There is extremely bad rising damp in the property.
 - d. There is a collapsing drain outside the utility room.
 - e. Two storage heaters are not working.
 - f. There is no uv filter in the loft for cleaning the drinking water.
 - g. There is no earth on any of the lighting circuits.
 - h. The cable/wiring in the property is a type banned many years ago.
 - i. There is an unsafe crumbling floor and steps in the room leading off the utility room.
 - j. The smoke alarms are not connected together.

3. The President of the Private Rented Housing Panel, after considering the application, determined 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:-
 1. The Tenants sent the following written representations to the Committee:-
 - a. They advised that they had already provided written representations and also that they had vacated the property on 9th May 2010.
 2. The Landlord sent the following written representations to the Committee:-
 - a. Letter, received by the PRHP office on 3rd June 2010, advising: 'An electrician is providing a quotation for rewiring part of the cottage and installation of a hard wired smoke alarm. UV filters have been installed in the house for some years although he understands that there has been a problem recently. He will ask his agents G M Thomson to confirm that the water is safe and supply all the necessary documentation once the works have been completed, hopefully by end of June/early July'.
6. The Private Rented Housing Committee acknowledged that the Tenants had vacated the Property and in terms of Section 7(1) of Schedule 3 of the Act the application is considered to have been withdrawn. However in terms of Section 3(b)(i) the Committee have power to continue to determine the application, despite the withdrawal. The Committee agreed that they would continue to determine the application as the original application included matters that related to the safety of the Property.
7. The Private Rented Housing Committee inspected the Property on the morning of 25th August 2010.

At the inspection they found as follows:-

- a. The windows had been sealed by the Tenants.
- b. The leaking sky light had been repaired.
- c. There was evidence of historic rising damp in the property, however there was no actual dampness at the time of the inspection.
- d. The roof leaks had been repaired.
- e. The collapsing drain outside the utility room had been repaired and a metal grate had been placed over the drain.
- f. The crumbling concrete floor and steps in the room leading off the utility room had been repaired.
- g. There was historic evidence of woodworm in the loft.
- h. A new heating system had been installed.
- i. A new water filter system had been installed.
- j. The property had been rewired and a certificate of compliance was provided.
- k. The grate had been repaired.
- l. Two hard wired smoke alarms had been installed.

A hearing was held following the inspection of the Property. The Tenants and Mr Evans, the Landlord's agent, attended. The Tenants advised the committee that all the matters contained in their application had been completed.

Summary of the issues

The issues to be determined are whether the defects claimed by the Tenants were present at the time of the inspection resulting in the Landlord failing to meet the Repairing Standard.

Findings of fact and reasons for the decision.

The Committee found that all the alleged defects had been repaired.

Decision

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

The decision of the Committee was unanimous.

Right of Appeal

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

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 ... **J Taylor**
Chairperson

Date: 30th August 2010