



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

PRHP Ref: PRHP/PA6/154/10

Re: The dwellinghouse being the subjects situated at and known as 4 Craigholme, Houston, Johnstone PA6 7DB, being the subjects registered in the Land Register of Scotland under Title Number REN116965 ("the Property")

The Parties:-

MR ZAREEF ASHRAF and MRS ALIA ZAREEF, residing at 4 Craigholme, Houston, Johnstone PA6 7DB ("the Tenants")

and

DOCTOR NIALL MacQUAIDE and MRS KATHERINE COOPER MacQUAIDE, per their agents Messrs Ross & Liddell, having a place of business at 25 Gauze Street, Paisley PA1 1ES ("the Landlords")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have now 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 led by the Tenants, both in writing and at the hearing, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1) (b) of the Act

Background

- 1 By application to the Private Rented Housing Panel dated 5th November 2010 the Tenants applied to the Private Rented Housing Panel for a determination as to whether the Landlords had failed to comply with the duties imposed by Section 14(1) (b) of The Housing (Scotland) Act 2006.**
- 2 By letter dated 22nd February 2011 the Private Rented Housing Panel intimated the decision of the President of the Panel to both the Landlords and the Tenants, to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee for determination.**

- 3 The Private Rented Housing Committee wrote to both the Tenants and the Landlords by letter dated 21st April 2011. That letter confirmed to both parties that the Private Rented Housing Committee intended to inspect the property on 16th May 2011 and thereafter to hold a hearing in relation to the Tenants' application on the same date.
- 4 The Private Rented Housing Committee inspected the property on the morning of 16th May 2011. Both Tenants were present at the inspection. Neither the Landlords nor their agents attended the inspection of the property.
- 5 Following the inspection of the property the Private Rented Housing Committee held a hearing at Houston Village hall, Main Street, Houston. The hearing was attended by both Tenants. Neither the Landlords nor their agents attended the hearing.
- 6 In terms of their application the Tenants submitted that they considered the Landlords had failed to meet the Repairing Standard as the Property had the following defects:-
- (a) The Tenants maintained that the garden fence of the property was in a state of disrepair. They maintained that the security and safety of the property had been compromised. The Tenants were further concerned that their young child could leave the back garden of the property through the gaps in the fence and put himself at risk as the rear of the property backed onto a public road.
 - (b) The Tenants maintained that the external lighting at the property was not in a reasonable state of repair. The Tenants complained that none of the external lights nor the security light at the rear of the property could be operated and were not in a reasonable state of repair.
 - (c) The Tenants maintained that the downstairs toilet within the property and the utility room which led from the kitchen of the property were cold and that these rooms had no heating.
 - (d) The Tenants maintained that there was a large gap underneath the dishwasher which allowed excessive draughts into the kitchen of the property.
- 7 The Committee's observations from their inspection of the property are as follows:-

	Complaint	Observation
(a)	Fencing at the rear of the property	The Committee noted that fencing at the rear of the property had large gaps where part of the fencing had been removed or had been broken. In general the fence was in a state of disrepair.
(b)	Exterior lighting	The Committee noted that three external lights to the property along with one security light at the rear of the property were not operational.
(c)	Heating in toilet/utility room	The Committee noted that there was no form of heating in the toilet or the utility room of the property.
(d)	Space under dishwasher	The Committee were not able to observe any particular issues with the space under the dishwasher.

Hearing

- 8 At the hearing it was explained to the Tenants that the Private Rented Housing Committee had jurisdiction to determine whether or not the property meets the Repairing Standard in terms of Section 13 (1) of the Act as at the date of the hearing.

- 9 The Committee heard evidence on all of the complaints raised by the Tenants from the Tenants themselves.
- 10 Taking each of the Tenants' complaints in turn and having considered the terms of the Tenants' application and the oral evidence they gave to the Committee, the Committee made the following findings:-

	Complaint	Observation
(a)	Fencing at the rear of the property	The Committee had noted that the fence at the property was in disrepair and that there were substantial gaps in the fencing at the rear of the property which backed onto a public road. The Committee were of the view in terms of Section 194 of the Act the Repairing Standard relates to the house, which includes "any yard, garden, garage, outhouse or other area or structure which is or which is capable of being, occupied or enjoyed together with the living accommodation (solely or in common with others)". The Committee were satisfied that the fencing around the property was a structure within the definition of the terms of the legislation and as such should be regarded as a fixture which had been provided by the Landlords under the tenancy. Given the condition of the fencing at the time of the Committee's inspection the Committee were satisfied that the fencing around the property was not in a reasonable state of repair and accordingly did not meet the Repairing Standard.
(b)	Exterior lighting	The Committee had noted that three external lights together with one further security light at the rear of the property were not operational. These items were all fixtures provided by the Landlords under the tenancy. Given that the lighting was not operational they were regarded by the Committee as not to be in a reasonable state of repair or in proper working order and they accordingly did not meet the Repairing Standard.
(c)	Heating in toilet/utility room	The Committee noted that there was no form of heating within the utility room or the small downstairs toilet of the property. There was, however, no apparent failure of the Repairing Standard in this respect. The Repairing Standard does not require that every room within the property has to have a form of heating supplied by the Landlords.
(d)	Space under dishwasher	The Committee could not identify any particular problems with the area under the dishwasher. The Committee were not satisfied that on the evidence available and from their observations there was any failure of the Repairing Standard in this respect.

Decision

- 11 The Committee accordingly determined the Landlords had failed to comply with a duty imposed by Section 14 (1) (b) of the Act. In particular the Landlords had failed to ensure that the property meets the Repairing Standard at all times during the tenancy. The Committee determined the Tenants had notified the Landlords of the work required to be carried out to the property and that the Landlords had failed to carry out this work.



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

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DOCTOR NIALL MacQUAIDE and MRS KATHERINE COOPER MacQUAIDE, per their agents Messrs Ross & Liddell, having a place of business at 25 Gauze Street, Pailsey PA1 1ES ("the Landlords")

NOTICE TO DOCTOR NIALL MacQUAIDE and MRS KATHERINE COOPER MacQUAIDE, per their agents Messrs Ross & Liddell, having a place of business at 25 Gauze Street, Pailsey PA1 1ES ("the Landlords")

Whereas in terms of their decision dated 16th May 2011, the Private Rented Housing Committee determined that the Landlords has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006.

The Private Rented Housing Committee now require the Landlords to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and in particular:-

- (a) Carry out such works as are necessary to repair or replace the garden fencing at the rear of the property to ensure that it is in a reasonable state of repair and in proper working order.
- (b) Carry out such repairs are as necessary to the three external lights and the security light at the rear of the property to ensure that they are in a reasonable state of repair and in proper working order.

The Private Rented Housing Committee require the Landlords to carry out such works as are necessary to make good any damage caused by the carrying out of the works required in terms of this order.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within 6 weeks from the date of service of this Notice.

A landlord or a 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.

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.

A Cowan

Signed
Chairperson

Date: 19th May 2011

C A Millar

.....Witness

Carol Anne Millar
7 West George Street, Glasgow G2 1BA