



## **Determination by Private Rented Housing Committee**

Statement of Reasons for Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 24(1) of the Housing (Scotland) Act 2006

Case Reference Number: PRHP/G44/148/12

Re:- Property at 543 Castlemilk Road, Glasgow, G44 5LX ("**the property**")

Land Register Title Number:- **GLA156008**

The Parties:-

Miss Sarah Ferguson residing at 543 Castlemilk Road, Glasgow, G44 5LX ("**the tenant**")

And

Miss Lynn Johnstone, per her Agents, DB Letting, 2230 Paisley Road West, Glasgow, G52 3SG ("**the landlord**")

### **Decision**

The Committee having made such enquiries as it saw fit for the purposes of determining whether the landlord had complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the 2006 Act") in relation to the property and taking account of the evidence led at the Hearing unanimously determined that the Landlord had **not** failed to comply with the duty imposed by Section 14(1)(b) of the 2006 Act.

### **Background:-**

1. By application dated 13 August 2012, the tenant applied to the Private Rented Housing Panel ("PRHP") for a determination of whether the landlord had failed to comply with the duties imposed by Section 14 (1) (b) of the 2006 Act.
2. The application made by the tenant stated that the tenant considered that the landlord had failed to comply with her duty to ensure that the house met the repairing standard and, in particular, the landlord had failed to ensure (a) the house was wind and

watertight and in all respects fit for human habitation; and (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.

3. In particular, the tenant stated there was dampness in both bedrooms, the kitchen and living room of the property. She complained that plaster had come off the walls in one of the bedrooms and there was water penetration within that bedroom
4. By letter dated 21 August 2012, the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22(1) of the 2006 Act, to a Private Rented Housing Committee ("the Committee").
5. By letter dated 17 September 2012 the Private Rented Housing Committee intimated to both the landlord and the tenant that they intended to inspect the property on 8 October 2012 and to thereafter hold a Hearing on the same date in relation to the merits of the application.
6. The Committee inspected the property on the morning of 8 October 2012. The tenant was present at the inspection. The landlord was present at the inspection and was accompanied by M/s Lynne Bean who is a representative of the landlord's Letting Agents.
7. Following the inspection of the property, the Committee held a Hearing at the office of the Private Rented Housing Panel in Glasgow. The tenant attended the Hearing along with the landlord's agent, M/s Lynne Bean.
8. At the inspection of the property the Committee noted the following:-
  - a. Within the bedroom there was no evidence of current dampness and no evidence of any recent water ingress was evident at the time of inspection. The wall around the window of the property had recently been plastered;
  - b. Within the kitchen of the property there was a small localised area of dampness on the lower part of the external wall. This wall had recently been repainted. The Committee noted there were some elevated readings of dampness on the lower part of the Wall although the Committee were of the view these readings did not indicate a significant problem with dampness in that area.
  - c. Within the living room of the property, the Committee noticed there was slight evidence of condensation dampness in the area below the window. The Committee were of the view that this was not significant.
9. At the hearing, the Committee heard from both the tenant and the landlord's agent. It was understood from the evidence of the tenant that in the late part of 2011 and into the early part of 2012 there had been significant water ingress into the second bedroom within the property. The landlord had attempted to engage with the agents acting for the tenant of the upper flat of the property as it was believed the water ingress could have been as a consequence of cracked rendering on the common front wall of the property. The upper flat owner and agent failed to engage with the landlord's agents in this respect.
10. In May 2012, the tenant arranged for cavity wall insulation to be installed in the property. Since that time the property has not been affected by water ingress.
11. Following the water ingress, the tenant had stripped the walls of the wall paper within the front bedroom and at that time significant parts of the plaster work broke away from the wall.

12. In September 2012, the landlord arranged for the wall of the front bedroom to be replastered.
13. The tenant has not noted any significant water ingress into the bedroom of the property since May 2012.
14. With regard to the dampness in the kitchen of the property, the tenant advised that the external wall of the property had previously been marked with dampness. The wall was cleaned and repainted by the landlord in September 2012.
15. With regard to the dampness in the living room, the tenant confirmed that she accepted that this was probably condensation dampness. The tenant accepted that the dampness in that respect did not appear to be particularly significant.

**Findings in fact**

16. Having considered all the evidence, the Committee found that (as at the date of inspection of the property), there was no evidence of disrepair, nor continuing evidence of disrepair as outlined by the tenant in her application. The Committee were satisfied that, as at the date of inspection, the property met the repairing standard. The Committee accepted the evidence of the tenant that there had been significant water ingress into one of the bedrooms within the property. The landlord had now taken steps to repair the damage caused by that water ingress. The Committee noted that the tenant accepted that there was no continuing complaint of water ingress at this time. Although there was a small localised area of dampness on the external wall in the kitchen, the Committee were satisfied that this was not a significant problem which indicated that the house was not fit for human habitation. In addition, the Committee noted that there was evidence of slight condensation dampness below the window in the living room. Again the Committee did not consider that this dampness was indicative of a property that was not fit for human habitation.
17. In all the circumstances therefore the Committee determined to dismiss the application.
18. The decision of the Committee was unanimous.

**Effects of Section 63**

19. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.
20. Where the appeal is abandoned or finally determined by confirming the decision, the decision, and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

**A Cowan**

Signed .....

Date 11 OCTOBER 2012

Andrew Cowan, Chairperson

**L McManus**

Signature of Witness.....

Date 11 OCTOBER 2012

Name, address and occupation of the witness (please print):-

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA

