



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

prhp Ref: PRHP/RP/13/0100

Re: Property at Whitewalls Farmhouse, Emmock Road, Tealing, Angus, DD3 0QE ("the Property")

The Parties:-

SIMON DONALDSON formerly residing at Whitewalls Farmhouse, Emmock Road, Tealing, Angus, DD3 0QE ("the Tenant")

MARK NORRIE c/o Calders, Solicitors, 10 Whitehall Street, Dundee ("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 obtained during the course of the inspection, 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 26 August 2013 the Tenant 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 Tenant stated that the Tenant 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) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
 - (b) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
 - (c) 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;
3. By letter dated 3 October 2013 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. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than their original application and accompanying correspondence. The Landlord, via his solicitor, made written representations to the Committee dated 23 October 2013.
5. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member; Mr D Godfrey, Surveyor Member; and Mr J Wolstencroft, Housing Member)

inspected the Property on the morning of 20 February 2014. The Tenant was not present, their tenancy having been terminated. The Landlord was present during the inspection.

6. Following the inspection of the Property the Private Rented Housing Committee held at a Hearing at Kirkton Community Centre, Derwent Avenue, Dundee. Neither the Landlord nor the Tenant were present or represented.
7. The Tenant's application alleged that the Landlord had failed to comply with the repairing standard. The Tenant had had numerous complaints which they did not feel the Landlord had properly addressed. In particular the Tenant alleged that the windows and doors within the Property were not properly wind and watertight. The back door was not secure and could not be used. The roof was leaking and sagging in places. The structure of the house was causing them concern. They also alleged that there was rising damp within the Property. There were additional issues in relation to the kitchen sink and the electrics.
8. The Landlord submitted that the Property did meet the repairing standard. The Landlord submitted that the Property had been in good condition at handover and had remained in good condition. The Landlord had dealt with any issues that had been raised by the Tenant, although there had been the odd delay here and there due to corresponding delay on the part of tradesmen.

Summary of the issues

9. The issues to be determined were:-
 - (a) Whether the windows were properly wind and watertight and met the repairing standard.
 - (b) Whether the rear door to the kitchen was secure.
 - (c) Whether the sink was leaking.
 - (d) Whether the dishwasher was in proper working order.
 - (e) Whether the electrics within the Property were in safe condition and met the repairing standard.
 - (f) Whether the roof and general structure of the Property was in good condition and met the repairing standard.
 - (g) Whether there was an issue with the flooring in the dining room.
 - (h) Whether the stairs were in good order and met the repairing standard.
 - (i) Whether there was damp and mould in various areas, in particular in relation to the main and rear bedrooms.
 - (j) Whether the front door was in proper working order and met the repairing standard.

Findings of fact

10. The Committee found the following facts to be established:-
 - The windows within the Property were in proper working order, properly wind and watertight and met the repairing standard.
 - There was no issue in relation to the door from the kitchen.
 - There was no leak from the sink.

- The dishwasher appeared to be in proper working order.
- The electrical installation within the Property met the repairing standard.
- The Committee could identify no structural issues in relation to the roof and the Property in general. The Committee was satisfied it met the repairing standard.
- The Committee could not identify any issue with the flooring in the dining room.
- The Committee could not identify any issue with the stairs at the Property.
- The Committee was unable to locate any areas of damp or water ingress in the Property.
- The front door met the repairing standard.

Reasons for the decision

11. The Committee based its decision primarily on the evidence obtained during the course of the inspection. The Committee inspected the windows throughout the Property. These were relatively modern units. All appeared to be in good working order. The Committee was readily satisfied that they met the repairing standard. There was no evidence whatsoever of excessive wind or water ingress.

The Committee inspected the kitchen. The door to the side appeared to be in proper working order. This was opened by the Landlord. The Landlord did acknowledge that if opened with excessive force the door could come off the rail. As far as the Committee was concerned the door was adequate for providing access and met the repairing standard.

The Committee inspected the sink and ran water through it. There was no leak. The Committee could not identify any issue with the dishwasher. An electrical installation condition report was available which did not indicate any issues.

The Committee inspected the electrical system within the Property. As stated above there was a clear and extensive electrical installation condition report provided by the Landlord in advance of the Hearing dated 7 January 2014. This confirmed that the electrical installation within the Property was in proper working order.

The Committee inspected the structure of the Property externally and also through a hatch in the main bedroom. The Property consisted of a very old building (at least 200 years old) with a more modern extension from circa 1980. The older part of the building did show some signs of historical movement but there did not appear to be anything untoward. Generally the structure and condition of the Property was good.

The Committee inspected the flooring in the dining room. There was no obvious reason for the Tenant to have complained about this. The Committee was satisfied this met the repairing standard.

The Committee inspected the stairs to the upper level. The Committee was readily satisfied that this met the repairing standard. There was no obvious defect with them.

The Committee were unable to see any evidence of damp penetration. It was evident from an external inspection of the Property that a damp proof course had been installed some time ago. There were some minor condensation marks consistent with a Property of this age and character. Other than that the Committee was readily satisfied that the Property was not suffering from damp or mould and that it met the repairing standard.

The Committee inspected the front door of the Property. This was relatively stiff to open and close and whilst it would benefit from being eased it did nonetheless meet the repairing standard.

Overall the Committee could not identify any of the issues complained of by the Tenant and was readily satisfied that the Property was in good order and met the repairing standard.

Decision

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

Right of Appeal

14. 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

15. 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.

E Miller

Signed Date 12/3/2014
Chairperson