



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**

In connection with

Property at Meadhon Cottage, Alichmore Lane, Crieff PH7 4HB (hereinafter referred to as "the House")

Stella Richardson, formerly of Meadhon Cottage, Alichmore Lane, Crieff PH7 4HB (hereinafter referred to as "the Tenant")

Kirsty Law, 6 Church Grove, Leswalt, Stranraer DG9 0JZ (hereinafter referred to as "the Landlord")

PRHP REFERENCE PRHP/RP/14/0045

DECISION

The Committee, having made such enquiries as are fit for the purposes of determining whether the Landlord has complied with the duty imposed by section 14(1)(b) of the Housing Scotland Act 2006 (hereinafter "the Act") in relation to the House, and taking account of the evidence led on behalf of the Landlord at the hearing and of the written documentation attached to the application and submitted by the parties, determined that the Landlord had not failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application dated 14 February 2014 (hereinafter "the Application") the Tenant applied to the Private Rented Housing Panel (hereinafter "the PRHP") for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and in

particular that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

*“(a) the house is wind and water tight and in all other respects reasonably fit for human habitation,
(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,...
(c) 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,...
(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire ...”*

The Tenant complained of the following matters:

- 1 The central heating boiler did not work properly;
- 2 Water ingress from the roof which had damaged internal ceilings;
- 3 The presence of high levels of moisture and related mould growth;
- 4 Unsafe electrics; and
- 5 A smoke alarm which does not function

By letter of 7 March 2014, the President of the PRHP intimated a decision under section 23(1) of the Act to refer the Application to a Private Rented Housing Committee (hereinafter “the Committee”).

The Committee comprised the following members:

John McHugh, Chairperson
Helen Barclay, Housing Member
Robert Buchan, Surveyor Member.

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

A hearing and inspection were fixed for 19 September 2014, earlier dates for inspection having proved unsuitable to the Landlord.

The Committee inspected the House on 19 September 2014. The Landlord was present and accompanied by her partner. The Tenant was neither present nor represented.

Following the inspection, the Committee held a hearing at Strathearn Community Campus, Pittenzie Road, Crieff.

The Committee considered the written evidence submitted by the Tenant and heard representations by the Landlord.

Submissions at the Hearing

The Landlord advised that, immediately after the Tenant had moved out, a new boiler had been installed and new roofing put in place over the kitchen and the dormer window.

The Landlord advised that the kitchen ceiling had been damaged by water ingress.

The Landlord advised that an electrician had checked the electrics and advised that these were in safe condition. The electrician had installed new electrical fittings including new hard wired smoke detectors.

The Landlord advised that she intends to move into the House as her main residence and is in the course of carrying out an extensive refurbishment of the property which will involve further plumbing, electrical, joinery and other work.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

(The Committee can only consider the condition of the property at the time of the inspection. It cannot retrospectively consider the condition of the property at some past date. The Committee can only consider the matters complained of by the Tenant and notified to the Landlord.)

Findings in Fact

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

- 1 The house is a traditionally built detached cottage over 100 years old with a flat roofed dormer window along the front and a flat roofed extension housing the kitchen at the rear. The house has oil fired central heating and modern uPVC framed double glazing.
- 2 The Landlord and the Tenant entered into a Tenancy Agreement in respect of the House dated 6 February 2012.
- 3 Kirsty Law is the registered owner of the House.

- 4 The Tenant took possession of the House from 7 August 2012 and left on or around 19 March 2014.
- 5 The provisions of Chapter 4 of Part I of the Act apply to the tenancy.
- 6 The Tenant notified the Landlord's agent of the defects in the House which are now the subject of the Application by email sent on her behalf by her Member of Parliament dated 23 December 2013.
- 7 The inspection on 19 September 2014 revealed:
 - a. The House was undergoing extensive internal renovation including the installation of two new shower rooms and redecoration.
 - b. A new central heating boiler had been fitted.
 - c. New flat roofing had been fitted to the dormer window and kitchen roof sections.
 - d. New smoke alarms had been installed.
 - e. There was evidence of historic water ingress in the kitchen. The affected areas were tested with a damp meter which revealed them to have dried out.
 - f. There was no evidence of recent water ingress.
 - g. There was no evidence of a condensation problem.

Reasons for the Decision

Central Heating

A new central heating boiler has been fitted.

Roof

New sections had been fitted to the roof including at the kitchen and the dormer window. It had been raining shortly before the inspection. There was no evidence of any leaks.

Moisture

There was no evidence of mould growth or excessive moisture/condensation within the House. The kitchen ceiling showed signs of historic water ingress but was found to be dry on testing with a damp meter.

Electrics

The Landlord advised that some electrical works had been completed and more were to be carried out in future as part of the refurbishment.

Smoke Alarm

New hard wired smoke alarms had been installed.

The Repairing Standard

The Committee consider that there is no breach of the repairing standard. Accordingly, no Repairing Standard Enforcement Order should be made.

General

Although no breach of the repairing standard was identified in relation to the matters raised in the Application, it was evident on inspection that the House would not currently meet the repairing standard as it is not habitable because of the ongoing refurbishment works.

Whilst the fact that extensive works have been carried out might suggest that the House may not have met the repairing standard when the Tenant raised her complaints, the Committee can only consider the matters complained of at the time of the inspection and it has no power to consider the matter retrospectively.

The Landlord advises that she does not intend to rent the House in future but will occupy it as her home.

We found the Landlord to be credible.

Decision

The Committee, considering the terms of section 13(3) of the Act, 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

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

J McHugh

John M McHugh
Chairperson

Date: 26 September 2014