



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: RP/14/0148

Re 20 Sophia Crescent, Irvine, KA12 9BL being the subjects registered in the Land Register of Scotland under title number AYR49284 ('the Property')

The Parties:-

Mr Mohamed Asli formerly residing at 20 Sophia Crescent, Irvine, KA12 9BL ('the tenant')

Mr Allan Green residing at Summerdale House, Ardrossan Road, Seamill, KA23 9LX ('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) of The Housing (Scotland) Act 2006 in relation to the Property, determined that the landlord has complied.

Background

- 1. By application dated 13th February 2014 the tenant applied to the Private Rented Housing Panel for a determination of whether the landlord has 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 landlord had failed to comply with the duty to ensure that the Property meets the repairing standard. The application contended that the Property is not wind and watertight and in all respects reasonably fit for human habitation; that the structure and exterior of the house (including drains, gutters and external pipes are not in a reasonable state of repair and in proper working order, that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order, that fixtures, fittings and appliances**

provided by the landlord are not in a reasonable state of repair and in proper working order and that the property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

In particular the application included a report from North Ayrshire Council Housing Services following upon an inspection carried out on 20th January 2014 which stated that:-

- 2.1 There is no provision for hot water in the property.
- 2.2 The electrical installations in the property may be unsafe.
- 2.3 There are defects in the guttering.
- 2.4 There are no smoke alarms
- 2.5 The fence in the back garden is broken.
- 2.6 There is a hole in the wall in the main bedroom
- 2.7 The spare bedroom door does not close.
- 2.8 The kitchen door does not close.
- 2.9 The door handles in the porch/living room do not work.
- 2.10 There is evidence of moisture in the exterior wall of the kitchen
- 2.11 No Energy Performance Certificate has been supplied.
- 2.12 There is evidence of moisture in the walls of the upstairs rooms, evidence of condensation in the ceiling of the second bedroom and widespread moisture in the ceiling.

3. The Private Rented Housing Panel served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant, dated 10th March 2014.

4. In response to the Notice of Referral the landlord intimated that the tenancy was no longer in place as a result of the tenant moving to a Council house. The landlord also made representations to the effect that there were no issues with the property and previous issues could not be addressed because of non compliance by the tenant.

5. The tenant was telephoned and confirmed that the tenancy had come to an end and he maintained that the property had been returned to the landlord in the same condition as it was in at the commencement of the tenancy.

6. A committee of the Private Rented Housing Panel comprising the President and the Vice President considered matters. It found that the application of the tenant should be treated as withdrawn in terms of Schedule 3 paragraph 7 (1) of the Act. In view of the potential health and safety issues for occupants of the property which were raised in the application, the committee considered it appropriate to continue to determine the application in terms of Schedule 3, paragraph 7(2) (b) of the Act.

7. The President of the Private Rented Housing Panel referred the application to a Private Rented Housing Committee under Section 23 (1) of the Act. The

Committee members are **Martin McAllister (Chairperson)**, **Alex Carmichael (Surveyor Member)** and **Jim Riach (Housing Member)**.

8. The members of the Private Rented Housing Committee inspected the property on 19th September 2014. The Landlord was present together with Ms Anne Redmond, the current tenant in the property. The subjects comprise a four apartment maisonette situated on the ground and first floors of a four storey terraced block which is estimated to be in the region of forty years old and which has recently undergone refurbishment.

8.1 Issue of whether or not the Property is wind and watertight and in all respects reasonably fit for human habitation.

Moisture readings were taken and no moisture was detected in any exterior wall of the kitchen.

8.2 Issue of whether or not 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.

No issue could be found with the gutter. No hole could be found in the wall of the bedroom and Ms Redmond said that she knew of no hole. All internal doors, including the handles, were found to be operational. The bedroom and kitchen doors were able to close. There is no broken fence in the back garden.

8.3 Issue of whether or not 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.

The hot water system with immerser was tested and found to be in good order. There was no apparent evidence of issues with electrical installations.

Issue of whether or not fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.

No evidence of any defects was apparent

8.2 Issue of whether or not the property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

There are two functioning smoke detectors wired to the mains electricity supply.

9. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Castlepark Community Centre. The landlord was present.

Preliminary Matter

The landlord said that he had a current electrical compliance certificate but had not brought it with him. He also said that a surveyor had been out that morning to inspect the property in connection with the provision of an energy performance certificate.

8. Summary of the issues

Sections 13(1) (a) (b) and (c) of The Act provide that the Property must be wind and watertight and in all respects reasonably fit for human habitation, the structure of the house (including drains, gutters and external pipes) must be in a reasonable state of repair and in proper working order and 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.

The specific issues to be addressed are:

The issues identified in the report of North Ayrshire Council.

9. Evidence

The landlord said that the tenant had prevented some issues being addressed and that the tenant had caused some problems himself. He said that it is possible that the fuse box was tripping because the tenant had been running a catering business from the property and that he had caused condensation by using a non vented tumble dryer.

10. Findings in fact

The Committee found

10.1 There is provision for heating water.

10.2 It could not confirm that the electrical installations in the property are safe from the Inspection or the Hearing but subsequent to the Hearing an electrical safety certificate was made available which stated that the electrical installation in the Property is satisfactory.

10.3 There are no defects in the guttering.

- 10.4 There are functioning smoke alarms.
- 10.5 The fence in the back garden is not broken.
- 10.6 There is not a hole in the wall in the main bedroom.
- 10.7 The spare bedroom door does close.
- 10.8 The kitchen door does close.
- 10.9 The door handles in the living room/ porch do work.
- 10.10 There is no evidence of moisture in the exterior wall of the kitchen.
- 10.11 There is no energy performance certificate.
- 10.12 There is no evidence of moisture in the walls of the upstairs rooms or evidence of condensation in the ceiling of the second bedroom. There is no evidence of widespread moisture on the ceiling.

11 Reasons

- 11.1 The committee inspected the property and saw no evidence of the matters raised by the tenant in his application. The committee accepted the evidence of the landlord in relation to the electrical compliance certificate and energy performance certificate.

Decision

The committee had to determine whether or not there are any of its findings in fact that constituted a failure by the landlord to ensure that the property meets the repairing standard in terms of the duty imposed by Section 14 (1) (b) of the Act.

The Committee accordingly determined that the landlord has complied with the duties imposed by Section 13(1)(a), 13(1)(b) and 13(1)(c) of the Act and determined that there was no requirement for a repairing standard enforcement order to be made. This was on the basis that the copy of the electrical compliance certificate to be provided by the landlord would be in satisfactory terms.

The decision of the Committee was unanimous.

NOTE

Within a matter of hours of the conclusion of the Hearing, the landlord sent a copy of a Domestic Electrical Installation Condition Report by abc Electrical dated 10th August 2014. The certificate stated that the electrician considered that the electrical installation is suitable for continued use. As a consequence of the committee members having sight of this certificate, it was confirmed that no action required to be taken. At the Hearing the committee had reminded the landlord of his obligations with regard to the ensuring that an energy performance certificate be provided to the tenant and exhibited at the property.

Signed **M McAllister** 25th September 2014

Martin J. McAllister
Chairperson