



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

prhp Ref: PRHP/RP/14/0176

Re: Property at Flat A, 1 Erroll Street, Peterhead, Aberdeenshire, AB42 1PU ("the Property")

The Parties:-

EGLÉ DULINSKIENE formerly residing at Flat A, 1 Erroll Street, Peterhead, Aberdeenshire, AB42 1PU ("the Tenant")

MR CHRISTOPHER JOHNSON, Rose Cottage, 17 St Mary Street, Peterhead, Aberdeenshire, AB41 ("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 17 July 2014 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) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
 - (b) The installations in the Property 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;
 - (c) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. By letter dated 3 November 2014 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. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
5. Following service of the Notice of Referral the Tenant made further representations dated 8 September 2014. The Landlord, via their solicitor, made written representations dated 29 August 2014.

6. The tenancy was terminated subsequent to the application to the Committee. However a decision was made by the Committee to continue with the case in light of the potential health and safety issues raised in the application as per the Committee powers under Schedule 2 paragraph 7(3) of the Act.

The Private Rented Housing Committee, comprising Mr E K Miller (Chairman and Legal Member), Mr Mike Scott (Housing Member) and Mr Ian Mowatt (Surveyor Member) inspected the Property on 9 March 2015. The Tenant was not present, the tenancy having been terminated. The Landlord was present during the inspection.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Palace Hotel, Peterhead. The Landlord was present and represented himself. The Tenant was not present.
8. There were no submissions from the Tenant other than her original application and subsequent Tenant's representations dated 8 September 2014.
9. The Landlord submitted that the Tenant had caused him severe difficulties during her occupation. A good number of the items that she was complaining about related to damage that she had caused to the Property herself e.g. in relation to windows. The Tenant had, without his consent, sub-let the Property to numerous people and various occupants had been present throughout the period of her lease. The condition of the Property when he regained possession was very poor and he submitted that he required to carry out a full refurbishment of the Property to bring the Property back up to standard. The Landlord indicated during the course of the inspection that he had no difficulty in complying with the repairing standard and would welcome any guidance from the Committee as to what he required to carry out to achieve this.

Summary of the issues

10. The issues to be determined were:-
 - a. Whether the toilet flushed properly and met the repairing standard.
 - b. Whether there were broken windows, particularly in the kitchen and bathroom.
 - c. Whether there was a hole in the floor at the entrance to the Property.
 - d. Whether the decor within the Property met the repairing standard.
 - e. Whether there was a leak in the roof of the Property and the Property was properly wind and watertight.
 - f. Whether the carpets within the Property met the repairing standard.
 - g. Whether the cooker hood was in proper working order.
 - h. Whether the boiler was in proper working order.
 - i. Whether there was mould and damp within the Property.

Findings of fact

11. The Committee finds the following facts to be established:-
 - The toilet did flush properly.
 - There were no broken windows within the Property.
 - There were no holes in the floor as at the date of inspection.
 - The Property was going through extensive refurbishment and would require to be redecorated as part of that.
 - There was no evidence of any leak entering the Property from the roof.

- There were no floor coverings present as the Property was undergoing refurbishment.
- The cooker hood was in proper working order.
- The boiler was in proper working order – a current gas safety certificate was exhibited.
- There was no evidence of mould or damp within the Property.

Reasons for the decision

12. The Committee based its decision primarily on the evidence obtained during the course of the inspection. The toilet had been replaced and the bathroom significantly refurbished. The toilet was in proper working order as at the date of the inspection.

The Landlord had carried out some works to the windows and as at the date of the inspection these were in proper working order.

The Landlord had laid new plywood flooring throughout the Property and as a result there were no holes. There had been some loose tiles at the entrance doorway but the Landlord was in the course of dealing with this.

The décor within the Property was incomplete. However this was due to the Landlord carrying out extensive refurbishment works that included new floors and the plasterboarding of the walls and ceiling. The Landlord would require, as a matter of course, to carry out redecoration upon the refurbishment works being completed. The Committee was satisfied that the Property would not be able to be re-let without the Landlord carrying out usual redecoration.

There was no evidence of any water penetrating into the flat or sign of a leak from the roof.

There were no carpets in the Property at the date of inspection but again it was evident that the Landlord would require to install new carpets or other form of floorcovering upon the completion of the refurbishment.

The cooker hood was working at the time of the inspection.

The boiler appeared to be a relatively modern unit that was in proper working order. A current a clear gas safety certificate was produced by the Landlord and this satisfied the Committee.

Meter readings were taken at various points throughout the Property and no significant damp or water ingress was detected. There were no signs of any mould and the Property appeared to be properly wind and watertight to the Committee.

Overall the Committee was satisfied that the Property met the repairing standard. The refurbishment was ongoing and the Landlord would, as part of that, require to carry out certain redecoration works. The fact that these were not completed at the date of the inspection was not, in the view of the Committee, a reason to serve an RSEO. The Landlord would require to carry out these works as a natural part of re-letting the Property and the Committee did not take the view that there was any benefit to the public interest in placing an RSEO over the Property for such a minor matter.

The Landlord appeared to the Committee to be a credible person who understood his responsibilities in terms of the law. On that basis the Committee was satisfied with the condition of the Property as at the date of inspection.

Decision

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

Right of Appeal

- 15. 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

- 16. 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.

Signed ...
Chairpers

E. Miller

.. Date... 10/9/15