



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

prhp Ref: PRHP/RP/14/0279

Re : Property at Bagira, The Row, Letham, Fife KY15 7RS ("the Property")

The Parties:-

William Adger, residing sometime at Bagira, The Row, Letham, Fife KY15 7RS ("the Tenant")

Mrs Sheila Jane Hogarth or McCann, residing at Cunnoquhie Mill, Letham, Fife KY15 7RU ("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, 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 27 November 2014, the Tenant applied to the Private Rented Housing Panel ("the 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"). The application was received by the Panel on 28 November 2014.
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 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,
 - (b) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order, and
 - (f) the house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire.
3. By letter dated 12 January 2015, the President of the Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee ("the 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 (by e-mailed letter dated 2 March 2015), made written representations to the Committee. The Landlord (by e-mailed letter dated 22 January 2015), made written representations to the Committee.

6. Prior to the date set for the inspection and hearing, the Panel was advised by both parties that the Tenant had vacated the Property. The Committee determined, however, that the application should continue to be considered under Schedule 2, Paragraph 7(3) of the Act and this decision was intimated to the Parties on 6 March 2015.
7. The Private Rented Housing Committee inspected the Property on the morning of 9 March 2015. The Tenant was not present or represented at the inspection. The Landlord was not present during the inspection, but the Committee members were admitted to the Property by her husband. The Committee comprised George Clark (chairman), Sara Hesp (surveyor member) and David Hughes Hallett (housing member). The surveyor member was, however, unable to attend the inspection and hearing, so the Committee was unable to take any damp meter readings. The Committee members present at the inspection were, however, satisfied that they had fully considered all of the issues raised by the Tenant and that they had not encountered any technical matters which would have required the specialist input of the surveyor member.
8. Following the inspection of the Property the Committee held a hearing at Auchtermuchty Community Centre, 1 Distillery Street, Auchtermuchty. Neither the Tenant nor the Landlord was present or represented at the hearing.
9. The Tenant, in his application, submitted as follows:- (a) the putty on the right hand garage window had been displaced through age and the window was in danger of falling out, (b) there was fungus growing under the sink unit in the kitchen, (c) the living room carpet was dangerous, (d) the dining room/living room door did not close properly, (e) the letter box flap was broken, (f) there was rust on the interior of the microwave oven, (g) the drawer of one of the kitchen units did not open fully, (h) the front door handle and lock jammed periodically, (i) the living room/kitchen door did not close properly, (j) there was a displacement crack in the second bedroom, (k) the radiator in the main bedroom was coming away from the wall, (l) there was damage to the bathroom wall and ceiling caused by damp, (m) the grill and two of the rings on the cooker were not working, (n) the electricity supply fuse box was in poor condition and there were a number of electrical sockets hanging off walls (o) there was a hole in the plaster work in the doorway leading from the living room to the garden and (p) there was no provision for detecting or giving warning of fires. The last three items were highlighted in a letter dated 22 April 2014, sent to the Landlord by Mr Alex Burns, Technical Officer (Private Housing Standards) of Fife Council, a copy of which letter was included in the application. In that letter, Mr Burns commented that he had not been provided with a copy of a Gas Safety Certificate carried out within the previous twelve months and, in his application, the Tenant requested that an outside vent be fitted to the gas fire in the living room.
10. In his e-mailed letter of 2 March 2015, the Tenant advised the Committee that the Landlord had replaced the microwave and that the gas fire had been replaced by an electric fire, but that a replacement cooker, which was itself a very old model, could not be fitted as it was too large for the cooker space. None of the other items raised in the application had been dealt with.
11. The Landlord, in her e-mailed letter of 22 January 2015, submitted as follows:- a similar list of alleged shortcomings had been submitted by the Tenant to Fife Council (Enterprise, Planning and Protective Services), whose Technical Officer, Mr Burns, had inspected the Property and produced a list of necessary corrective measures. As a consequence, the Landlord had instructed plumbing and electrical contractors to undertake the work required and to correct any further shortcomings they found during their visits. The Landlord attached invoices from an electrical contractor for replacing the existing consumer unit with a distribution board complete with MCBs and RCD protection, for upgrading the earth bonding to the gas pipe and for installing a mains powered (with battery back up) interconnected fire detection system to the lower and upper floors and from a plumbing contractor for refixing the shower grating and resealing the shower tray and for fitting an inlet valve. The Landlord stated that the complaints by the Tenant relating to loose structural and electrical fittings were not evident when investigated by both contractors.

Summary of the issues

12. The issues to be determined were whether the Property met the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duties imposed on landlords by Section 14(1)(b) of the Act.

Findings of fact

13. The Committee finds the following facts to be established:-
- The tenancy is a Short Assured Tenancy, which commenced on 3 September 2001.
 - The Tenant has vacated the Property.
 - The Committee regard the garage window as a matter which is outwith its remit, so did not inspect it. The garage is detached and is situated at the end of the rear garden of the Property.
 - The Committee could find no visible evidence of fungus growing under the sink unit in the kitchen.
 - There is a join in the living room carpet, but the edges are covered by a recently-fitted wooden baton strip and are not exposed, so do not constitute a tripping hazard.
 - The dining room/living room door closes properly.
 - The letter box is functioning properly.
 - The microwave oven referred to in the application has been replaced.
 - The drawer in one of the kitchen units cannot be opened beyond the point that it comes in contact with one of the control knobs on the front of the cooker.
 - The front door handle and lock appear to be in working order.
 - The living room/kitchen door handle is loose, but the door can be properly closed and opened.
 - The Committee was unable to detect any structural crack in the second bedroom, but noted that there was unevenness in the wallpaper at the corner adjacent to the right-hand side of the rear window. This unevenness appeared to the Committee to result from the manner in which the wallpaper had been fitted.
 - A new wallplate has recently been fitted behind the radiator in the main bedroom and the radiator is securely fitted.
 - There is no evidence of damp staining to the bathroom ceiling or walls. The Committee noted the comment by the Landlord that there had been a leak through the flat roof, but the roof had been replaced and the affected area had recently been redecorated.
 - The Landlord's husband accepted that the grill and two of the rings on the cooker were not working, but advised the Committee that it was the Landlord's intention to replace the cooker.
 - A new electrical distribution board has been fitted and the Landlord's husband provided the Committee at the inspection with a Portable Appliance Testing Report from RC Electrical, dated 6 March 2015, in respect of the washing machine, the microwave, the fridge and the electric heater in the living room. The Committee found that all of the electrical sockets in the Property were securely fitted.
 - There is evidence of a recent repair to the plasterwork at the door leading from the living room to the garden and there is no hole in the plasterwork.
 - There are hard-wired smoke detectors in the living room and on the upstairs landing and a hard wired heat sensor in the kitchen. The Committee has seen a copy of the invoice for installing them and the invoice states that they are interlinked.

- The Committee has seen a current Gas Safety Certificate dated 7 May 2014, issued by Landlord's Inspection Service in respect of the Property. The gas fire is stated to be "at risk", but otherwise, the installation was passed as safe.

Reasons for the decision

14. The only issues raised by the Tenant in his application which the Committee found to be substantiated and unresolved were the fact that the drawer of one of the kitchen units could not be fully opened and the fact that the grill and two of the rings on the cooker were not working. The Committee was satisfied that the issue regarding the drawer was trivial and that there was ample alternative storage space in the kitchen. The Committee had been advised that the Landlord intends to replace the cooker and was prepared to accept that assurance, given that the Landlord had attended to the other items in the application. In the view of the Committee, there would be no justification for issuing a Repairing Standard Enforcement Order in respect of these issues. The gas fire which had failed at inspection for the Gas Safety certificate has been disconnected and removed from the Property, so there was no longer any need to fit an external vent.

Decision

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

Right of Appeal

17. **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

18. 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.

George Clark

Signed
Chairperson

Date 9 March 2015