



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

PRHP/RP/15/0078

TITLE NUMBER: ROX9010

**Re: The residential dwellinghouse at**

**18/6 Havelock Street  
Hawick  
TD7 7BB**

**("the Property")**

**The Parties:-**

**Miss Natalie Paterson  
Formerly resident at the Property**

**("the Tenant")**

**and**

**Mr Kevin Rushton and Ms Fiona Helen Thorburn  
14/1 Dalgetty Avenue  
Edinburgh  
EH7 5UL**

**("the Landlords")**

**The Committee comprised:**

**Mr Ron Handley – Chairperson  
Mr Ian Murning – Surveyor  
Ms Ann MacDonald – Housing Member**

**The Committee's Decision**

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords had complied with the duty imposed by Section 14(1) (b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, and taking account of the evidence before it, unanimously determined that the Landlords had complied with the duty imposed by Section 14(1) (b).

## **Background**

1. On 26 February 2015 the Tenant applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlords had failed to comply with the duties imposed by Section 14(1)(b) of the Act.
2. On 12 February 2015 the Landlords gave notice to the Tenant under section 33(1)(d) of the Housing Act 1988 (as amended). The Notice intimated that the Landlords required vacant possession of the Property as at 30 April 2015.
3. On 16 March 2015 the President of the PRHP decided to refer the Tenant's application to a Private Rented Housing Committee ("the Committee").
4. The President's decision was intimated to the parties.

## **The Application**

5. In her application the Tenant alleged that the Landlords had failed to comply with the duty to ensure that the Property met the Repairing Standard (as defined in the Act). It was submitted that the Landlords had failed to ensure that the Property was wind and water tight and in all other respects reasonably fit for human habitation. It was also submitted that the structure and exterior of the Property (including the drains, gutters and external pipes) were not in a reasonable state of repair and not in proper working order. Finally it was submitted that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water were not in a reasonable state of repair and not in proper working order.
6. In particular it was suggested in the application that the window in the bedroom required to be replaced and appropriate measures should be taken to alleviate condensation within the Property. It was suggested that there was no heater in the bathroom and there was penetrating damp near the WC foul pipe.

## **The Evidence**

7. The Committee had before it a bundle of documents which included Land Register documents, a copy of the Tenancy Agreement, a copy of the Application Form and copies of various e-mails and letters. The Committee also had a "Housing Inspection Report" from Scottish Borders Council which indicated that the extent of condensation within the Property was such that it was considered to be a Statutory Nuisance under section 79 of the Environmental Protection Act 1990.

### **The Inspection**

8. The Committee inspected the Property at 10.00hrs on 28 May 2015. The Landlords were not present at the inspection but Mr Robbie Czajka (acting on behalf of the Landlords) allowed the Committee access to the Property.

### **The Hearing**

9. A Hearing was arranged to take place after the inspection at 11.00hrs in Hawick Town Hall, Cross Wynd, Hawick, TD9 9EF. The Landlords did not attend the Hearing and were not represented. No one else attended at the venue for the Hearing and consequently the Hearing did not take place.

### **Summary of the issue**

10. The issue to be determined by the Committee was whether the Landlords had complied with the requirements of the Act to ensure that the Property met the Repairing Standard.

### **Findings**

11. The Committee found the following facts to be established:
  - On 28 January 2014 the Tenant and the Landlords entered into a Tenancy Agreement that related to the Property.
  - At the time of the inspection the Tenant had lawfully vacated the Property.
  - The Property is the northmost one bedroomed top floor flat in a tenement block.
  - The windows in the Property (including in the bedroom) are double glazed PVC units. These windows are modern and are wind and water tight. They are in a reasonable state of repair and in proper working order.
  - There is no dampness within the Property.
  - The WC in the bathroom is in a reasonable state of repair and in proper working order.
  - The Property is heated by a number of electric heater. There is no heater in the bathroom.

### **Reasons for the Decision**

12. As indicated, the windows in the Property are modern double glazed PVC units. The Committee found no evidence of dampness

/condensation within the double glazing panes. Although at the time of the inspection the weather was dry and there was no wind, it was clear to the Committee that all the PVC units (including those in the bathroom) were well fitting and that the external rubber seals of the windows were in a reasonable state of repair. None were perished or damaged. They were in a reasonable state of repair and in proper working order.

13. A protimeter was used to check for levels of dampness throughout the Property. The Committee found no evidence of dampness or water penetration in any of the walls within the Property. There was no evidence of dampness or water ingress in the bathroom. The WC appeared to be in proper working order.
14. The Committee noted that there were a number of electric heaters positioned throughout the Property. There was no such heater in the bathroom and from the information available, it appeared that there had been no heater in the bathroom at the time the Tenant and the Landlords entered the Tenancy Agreement. The absence of an electric heater in the bathroom was not an issue which engaged the Repairing Standard.
15. The Committee found the Property to be in a reasonable state of repair and it appeared to have been recently re-decorated.
16. The Committee had no hesitation in finding that the Repairing Standard was met.

**Decision**

17. The Committee determined that the Landlords had complied with the duty imposed by section 14(1) (b) of the Act.
18. The decision of the Committee was unanimous.

**Right of Appeal**

19. A Landlord(s) or Tenant (s) aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

**Effect of section 63 of the Act**

20. 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. 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 ..... **R. Handley** ..... Date 4 June 2015  
Chairperson