



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

Re: Daleview, Thurso, Caithness, KW14 7XD ('the Property')

The Parties:-

Mr and Mrs David Kerr residing at Daleview, Thurso, Caithness, KW14 7XD ('The Tenant')

Mr and Mrs Leslie Mackay per Georgesons Estate Agents, 22 Bridge Street, Wick, KW1 4JG ('The Landlords')

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the Property, determined that the Landlords have NOT failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 10th March 2015 the Tenants applied to the Private Rented Housing Panel for a determination of whether the Landlords have 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 Tenants stated that they considered that the Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. They advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation.

In particular the application stated that the windows and doors in the property are draughty. Also there is insufficient loft insulation and underfloor insulation and cavity wall insulation is required.

3. The President of the Private Rented Housing Panel, having considered the application, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Committee members were Jacqui Taylor (Chairperson) and Sara Hesp (Surveyor Member).
5. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlords and the Tenants, dated 15th April 2015.
6. Following service of the Notice of referral the Landlords sent the PRHP Administration an email dated 11th April 2015 which advised *inter alia* that the Property was built in 1997 to the local authority specifications and approval, which included loft, floor and wall insulation.

7. The Committee attended at the Property on 28th May 2015. The Tenants were present. The Landlords were not present and were not represented. The Committee inspected the alleged defects and found as follows:-

7.1 Draughty windows and doors.

The windows throughout the property were double glazed. The Committee inspected each window and door in turn (internally and externally) to determine if they were wind and water tight. Where possible they closed the curtains over the windows and doors to enable any draughts to be detected. There was a reasonably strong breeze outside on the day of the inspection (probably in excess of 15 knots) but no draughts or signs of water ingress were detected.

7.2: Insufficient insulation:-

7.2.1: Lack of under floor insulation

An inspection of the underfloor cavity was carried out insofar as was possible using the access hatch in the hall cupboard. There was no underfloor insulation apparent. .

7.2.2: Loft insulation to be increased

A head and shoulders inspection of the loft was carried out and it was found that insulation fully covered the floor of the attic.

7.2.3: Cavity wall insulation required.

It is believed that there was no cavity wall insulation in the Property.

7.2.4: Underfloor insulation required

There was no underfloor insulation evident in the Property.

8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Caithness Chamber of Commerce, Naver Business Centre, Naver House, Naver Road, Thurso KW14 7QA. The Tenants were present. The Landlords did not attend and were not represented.

In relation to the matters detailed in the Tenants' application the Tenants advised that after they took entry to the Property they were provided with the Energy Performance Certificate. They were surprised by its terms. The Property is band C (current energy efficiency rating 71). The potential Energy Efficiency rating is band B. (potential energy efficiency rating 83). They had been in touch with insulation companies who had surveyed the Property and advised that cavity wall insulation and additional loft insulation would be desirable. They were very concerned at the high energy bills for the Property and the draughts in the Property, in particular in the main bedroom. The draughts were so bad that they had moved from the main bedroom to a bedroom at the rear of the Property.

The Tenants accepted that the Committee had not witnessed any draughts at the windows and doors during the inspection.

9. Summary of the issues

The issues to be determined are:-

The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

Whether the condition of the windows, doors and insulation in the Property result in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

10. Findings of fact

The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

The Committee had not found any evidence of draughts or water ingress at the windows and doors of the Property.

The Committee had found that the attic was fully insulated. They were mindful that the Repairing Standard does not include any specific insulation requirements but the minimum standards of the Tolerable Standard (as provided for in the Housing (Scotland) Act 2006) only require attic insulation to be present.

Accordingly the Committee found that the Property is wind and watertight and in all other respects reasonably fit for human habitation

Decision

11. The Committee accordingly determined that the Landlord had NOT failed to comply with the duties imposed by Sections 13 (1)(a) of the Act, as stated.
12. The decision of the Committee was unanimous.

Right of Appeal

13. 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

14. 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 **J. Taylor** Date 2nd June 2015
Chairperson