



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

prhp Ref: PRHP/RP/16/0104

Re : Property at 9 Haulkerton Crescent, Laurencekirk, Kincardineshire, AB30 1FB ("the Property")

The Parties:-

Jackie Mennie, formerly residing at 9 Haulkerton Crescent, Laurencekirk, Kincardineshire, AB30 1FB ("the former Tenant")

and

Gregor Watson, residing at Villa 51 Sidra Village, Street No 22, Umm Suqeim 2, Dubai, UAE ("the Landlord"), who's agent is Aberdeen Considine, 5-9 Bon Accord Crescent, Aberdeen, AB11 6DN ("the Landlord's Agent")

The Committee comprised:-

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|------------------|---|-----------------|
| Mrs Ruth O'Hare | - | Chairperson |
| Mr Colin Hepburn | - | Surveyor member |

Decision

The Committee unanimously determined that the Landlord had complied with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act")

Background

1. By application received on 17 March 2016 the Applicant 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 stated that the Applicant 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 house is wind and watertight and in all other respects reasonably fit for human habitation;
3. In particular the former Tenant stated that there was damp and mould in the upstairs bedroom and the storage facilities were unusable as a result.
4. By emails dated 1 May 2016 and 22 May 2016 the former Tenant advised that she had vacated the Property on 9 March 2016 and her tenancy had terminated on 10 April 2016. By Minute of Continuation dated 31 May 2016 the President of the Private Housing Rented Housing Panel decided to continue with the application in view of the fact that the nature of the alleged repairs raised health and safety grounds for any future tenants/occupants as well as issues as to whether the property was habitable. The application therefore required to be determined on public interest grounds.

5. By letter dated 20 June 2016 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. 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 Landlord's Agent.
6. Following service of the Notice of Referral the Landlord made written representations to the Committee. The Landlord submitted that the former Tenant had failed to properly heat and ventilate the property which had led to condensation in the upstairs room. The Landlord advised that he had previously resided in the property for seven years and had not had the same issues. He confirmed that he had taken steps to install a ventilation system in the property as well as replacing a velux window in the upstairs window to address the condensation issues. The Committee received a further representation from the Landlord's Agent on 20 July 2016 confirming that the property had been re-let and a new tenant had taken up occupation on the 24th June 2016.
7. The Private Rented Housing Committee attended the property on 1st August 2016. Neither the Landlord nor the Landlord's Agent was present. The Committee were permitted access by the new tenant who had been requested to do so by the Landlord's Agent. The Committee proceeded to inspect the Property.

The Inspection

8. During the inspection the Committee members examined the areas of complaint raised by the former Tenant in the upstairs bedroom. Her complaint was that the room was not wind and watertight and suffered from damp.
9. The Committee members inspected the room which was located off the kitchen/dining area and accessed via a spiral staircase. It had an en-suite shower room attached. The Committee noted there was evidence of past condensation staining however readings were taken with a damp meter and found no evidence of damp or moisture in the room. The Committee noted a Nuair ventilation system had been installed in the hall of the property as had been stated by the Landlord in his written representation.
10. The inspection was concluded and the Committee members travelled to the venue for the hearing.

The Hearing

11. The hearing took place in the Mearns Community Campus, Laurencekirk. The Landlord and the Landlord's Agent were not present. The former Tenant was not present.

Findings of fact

12. Having considered all the evidence the Committee found the following facts to be established:-
 - The tenancy was a short assured tenancy between the Landlord and the former Tenant which commenced on 10 July 2014. The tenancy was lawfully terminated on 10 April 2016.
 - The Property consists of a single storey detached bungalow with an upper conversion to the rear of the property.
 - The Property was inspected on the morning of 1st August 2016 on a warm and dry day;
 - There is no evidence of water ingress within the upstairs bedroom.
 - There is no evidence of ongoing damp or condensation in the upstairs bedroom.
 - The property is presently wind and watertight and in all other respects reasonably fit for human habitation;

Reasons for the decision

13. The Committee determined the application having regard to the terms of the application, the written representations and their inspection.
14. The Committee was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the application.
15. The Committee was satisfied having inspected the property that there was no evidence of ongoing damp or water ingress in the upstairs bedroom of the property. The readings taken with the damp meter during the inspection supported the Committee's findings in this regard and confirmed that the room was free from moisture and damp.
16. The Committee was conscious that the location and layout of the upstairs bedroom, being situated off the kitchen area and with an ensuite shower room attached, meant that condensation could prevail if the area was not properly heated and ventilated. The Committee had noted that there was indeed past condensation staining in the room. Having regard to its findings during the inspection the Committee took the view that any past condensation was likely to be a result of the living habits of the occupier and a failure to have regard to the risks posed by the particular setup of the room. It would therefore be prudent for the Landlord or Landlord's Agent to give clear instructions to any future tenants as to the proper heating and ventilation of that particular room in order to fully mitigate the risk of condensation damage.
17. The Committee therefore determined that the Landlord had complied with his duties under section 14(1)(b) of the Act and accordingly took no action. The decision of the Committee was unanimous.

Right of Appeal

18. 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. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the panel or the committee which made the decision.

Effect of section 63

19. 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.

Ruth O'Hare

Signed

Date: 3 August 2016

Ruth O'Hare
Chairperson

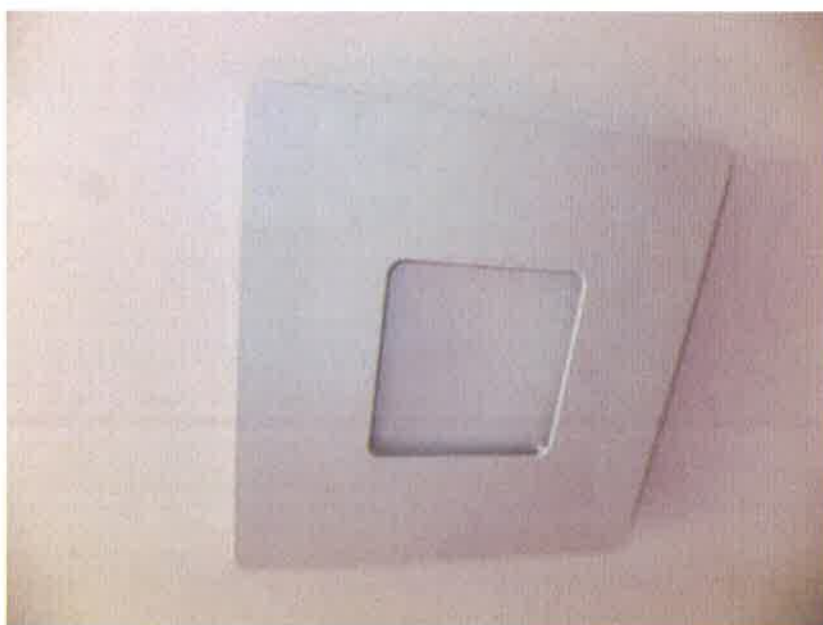


**Schedule of photographs in relation to Statement of Decision
by the Private Rented Housing Committee dated 3rd August
2016**

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Rear of house showing conversion



Ventilation system in hall



Cupboard in upstairs bedroom



Velux window in upstairs bedroom



Ceiling in upstairs bedroom