



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

prhp Ref: PRHP/RP/16/0120

Re : Property at 17 Dudhope Street, Dundee DD1 1JT ("the Property/ the house")

The Parties:-

Miss Oceanne Camus, residing sometime at 17 Dudhope Street, Dundee DD1 1JT, (represented by her agent, Inverness, Badenoch & Strathspey Citizens Advice Bureau, 103 Academy Street, Inverness IV1 1LX ("the Tenant"))

Richard Malcolm Bailey, 6 Castle Gogar Rigg, Edinburgh EH12 9FP (represented by his agent, Rockford Properties Limited, having a place of business at 50 Castle Street, Dundee DD1 3AQ) ("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 led on behalf of the Landlord at the hearing, 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 received on 4 April 2016 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 house is wind and water tight and in all other respects reasonably fit for human habitation and
 - (b) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.
3. By letter dated 12 May 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.
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, neither the Tenant nor the Landlord made any further written representations to the Committee
6. The Private Rented Housing Committee inspected the Property on the afternoon of 23 June 2016. The Tenant had vacated the Property and was not, therefore, present or

represented at the inspection or the subsequent hearing. The Landlord's agent was present during the inspection.

7. The Committee comprised George Clark (Chairman) and Harry Maclean (Surveyor member).
8. A file of photographs, taken at the inspection, is attached to and forms part of this Statement of Decision.
9. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Caledonian House, Greenmarket, Dundee DD1 4QX and heard from the Landlord's agent's Operations Manager, Natalie Robertson and Senior Property Manager, James Robertson.
10. The Tenant submitted as follows:- the Communal door did not lock and the common entrance area was being frequented by drug users, who were abusive to the Tenant; the Tenant had reported problems with damp immediately upon moving in to the Property in July 2015. This had been partly remedied, but the Tenant had moved out due to the communal entry being insecure. The Tenant had reported defects to the Landlord's agent, namely damp and mould in every room and cupboard, a hole above the front door which leaked water and bulges in the ceiling holding water and leaking brown liquid. Repairs had included replastering of the kitchen and the cupboard in the bedroom, redecoration of the Property and the installation of insulation and new panels in the roof.
11. The Landlord's agent, at the hearing, submitted as follows:- There was no hole above the front door, the common entrance door had had a new lock fitted in September 2015 to make it secure. There had been a leak at the chimneyhead, and roof and chimney repairs had been carried out on 11 February 2016. The plaster in the affected area of the Property had been replaced and the necessary redecoration had been carried out. The bathroom ceiling had also been repainted as a goodwill gesture. Insulated plasterboard had been fitted to the outer wall of the kitchen and a plaster skim applied.

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 8 June 2015 and terminated on 7 June 2016.
 - The Tenant vacated the Property prior to the date of the inspection and hearing and a new tenant was in occupation by that date.
 - The property is a top (third) floor flat in a traditional stone-built tenement of flats with a pitched and slated roof.
 - The Committee found no evidence of a hole above the front door of the Property.
 - The communal entrance door has a lock on it and this lock was operational at the time of the inspection.
 - There is no evidence of bulging in the living room ceiling. There are signs of recent repair and redecoration.
 - The Committee found no evidence of dampness in the Property and various areas, including the living room and kitchen walls and ceilings were tested with a moisture meter at the inspection and found to be dry.

Reasons for the decision

14. The Committee accepted the evidence given by the Landlord's agent that repair and redecoration works had been carried out in the living room of the Property, that insulated

plasterboard had been fitted on the outer wall of the kitchen and that a new lock had been fitted to the communal entrance door. This evidence was borne out by the Committee's own observations at the inspection.

15. The Committee noted that there was a mains-wired smoke detector in the hallway of the Property but there was no smoke detector in the living room and no heat detector in the kitchen. This was pointed out at the inspection to the Landlord's agent, who was aware that some upgrading would be required. There is no supply of gas to the Property and, therefore, no requirement for a carbon monoxide detector.

Decision

16. The Committee accordingly determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
17. 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.**

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.

Signed G Clark Date 23 June 2016
Chairperson



Lounge ceiling – Recent patch repair



Operating Smoke alarm