

Ref PRHP/RP/16/0171



Private Rented Housing Committee

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

Re: 14/5 Lauriston Gardens, Edinburgh EH3 9HJ (“the Property”)

Sasine Register Electronic Search Sheet Number: 194757

The Parties:-

**[MS ALICE STEVENSON, residing at 14/5 Lauriston Gardens, Edinburgh
EH3 9HJ (“the former Tenant”)]**

**JAMES ROBERT EWEN and GORDON GEORGE EWEN, residing care of
RentLocally, Unit 1, 109 Swanston Road, Edinburgh EH10 7DS (“the Landlords”)**

Committee members:-

Richard Mill (Chairman) and David Godfrey (Surveyor Member)

Decision

The committee, having made enquiries for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the Property, determines that the Landlords have not failed to comply with their duty imposed by Section 14(1)(b) of the Act in respect that the Property does meet the Repairing Standard.

Background

1. By way of application received on 28 April 2016 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords had failed to comply with their duties imposed by Section 14(1)(b) of the Act in respect of the Property.
2. In the application the Tenant stated that the Landlords had failed to comply with their duty to ensure that the house meets the Repairing Standard in a number of respects. The relevant aspects of the Repairing Standard put at issue are those contained within Sections 13(1)(a) and (b) which are in the following terms:-
 - whether the house is wind and watertight and in all other respects reasonably fit for human habitation.
 - whether 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. The main complaint of the Tenant was that there were continuous leaks throughout the flat which had been reported to the Landlords and not fixed. The Tenant made reference to temporary repairs and action being taken by the Landlords. The leaks had resulted in water damage and mould. The Tenant also referred to trouble with the heating system, albeit they had not specifically raised the Landlords' compliance or otherwise in ensuring compliance with Section 13(1)(c) which is in the following terms:-
 - whether 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.

The committee was satisfied that this additional issue, though referred to within the application, had not been formally raised with the Landlords nor complained of previously. The Tenant failed to evidence this. Accordingly, the committee could not consider this aspect of the application formally.

4. Notices of Referral were issued to parties on 13 July 2016.
5. In advance of the hearing and inspection the Landlords advised that the Tenant had left the Property at the end of the lease term, namely 21 July 2016. The committee considered the application and having regard to the public interest issued a Minute of Continuation.

Inspection

6. Mr James Ewen, one of the Landlord's, was in attendance and allowed the committee members access into the Property and directed them around on 24 August 2016. The committee carried out observations and noted background facts from Mr Ewen. Mr Ewen advised that he did not intend to appear at the Hearing.

Hearing

7. Following the inspection of the Property the committee convened a Hearing at George House, Room D8, 126 George Street, Edinburgh EH2 4HH. There were no additional attendees.

Summary of the issues

8. The issues to be determined by the committee are whether or not the Property meets the Repairing Standard to the extent put at issue within the application, as at the date of the Hearing. The focus of the committee's investigation related to the complaints as specified within paragraphs 2 and 3 above.

Findings in Fact

9. The committee makes the following findings in fact:
 - 9.1 The title to the subjects known as 14/5 Lauriston Gardens, Edinburgh EH3 9HJ is held by the Landlords. Their interest is registered in the Sasine Register of Scotland on Search Sheet Number 194757.
 - 9.2 The parties entered into a Short Assured Tenancy in relation to the Property on 22 May 2015. The Tenant is one of five named tenants on the Lease. Each of the five tenants had a guarantor. The Landlords' interests were represented by their Letting Agent, Rent Locally. The tenancy has now ended.
 - 9.3 The Property which is the subject of this Application is a large five bedroom HMO property on the top floor of a traditional tenement building within central Edinburgh.
 - 9.4 In relation to the matters complained of in the Application the committee's inspection revealed:-
 - i. The Property is generally well maintained.
 - ii. There was no evidence of any ongoing active roof leaks. There was no evidence of mould within the Property. There were three sites within the Property where water had been penetrating as a consequence of roof defects. The three sites were within the bay windowed living room and one of the bedrooms at the front of the Property and within the dining kitchen at the rear of the Property. Damp meter testing evidenced higher than expected moisture readings but not to the level which would be expected if leaks were active. Internal re-decoration had been carried out following the earlier leaks. The decoration was sound and there was no mould growth.

- iii. Reference is made to the Annex of photographs which were taken at the time of the committee's inspection which are attached for reference.

Reasons for the Decision

10. The committee determined the Application having regard to the bundle of papers (which had been made available in advance to parties) and the committee's findings at the time of their inspection.
11. The committee was only able to formally consider the Tenant's complaints which formed part of the intimated Application. The committee was also under an obligation to consider the Tenant's complaints as at the time of the Inspection and Hearing on 24 August 2016.
12. 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.
13. Reference is made to the committee's findings and in particular those made on the basis of the inspection found within paragraph 8.4 above.
14. The committee were provided with photographic evidence at the time of the committee's inspection of the roof repairs which had been carried out at the Property. The photographs depicted defective roof works requiring attention and thereafter depicted the roof following the works being carried out. The pictures generally evidenced the removal of vegetation and other growth affecting the gutterings and valleys and the replacement of slipped slates.
15. There was no doubt on the basis of the evidence before the committee that whilst the Property had sustained water damage as a consequence of earlier roof repairs requiring to be undertaken, that these had been completed to a satisfactory standard and that all necessary re-decoration thereafter had been carried out.
16. The committee noted for completion at the time of their inspection that the Landlord did have an up-to-date Gas Safety Certificate in force in respect of the Property which bears a date of 17 December 2015. The committee also noted that the Property is installed with hardwired smoke and heat detectors in accordance with current guidelines.

Decision

17. The Property does meet the Repairing Standard. The Landlords have complied with their duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is not necessary.

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 of the Act

19. Where such an appeal is made, the effect of the decision and of any order made, 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 date on which the appeal is abandoned or so determined.

Richard Mill

Margaret Murray ^{witness}

chairman

Margaret Johnstone Murray
21 Stafford Street
Edinburgh
EH3 7BJ

Date: 30 August 2016

Legal Secretary



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FLAT 5, 14 LAURISTON GARDENS, EDINBURGH, EH3 9HJ

Front elevation



Roof/Chimney detail – Front elevation north



Roof/Chimney detail – Front elevation south



Bedroom 1 (Room north west) – Upper wall/cornice/ceiling



Bedroom 2 (Room south west) – Upper wall/cornice/ceiling



Kitchen/Dining Room (Room south east) – Upper wall/ceiling



David Godfrey MRICS

24th August 2016