



Determination by Private Rented Housing Committee

Statement of Reasons for Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 24(1) of the Housing (Scotland) Act 2006

Case Reference Number: PRHP/DG1/172/10

Re:- Property at Fichjo, Quarry Road, Locharbriggs, Dumfries, DG1 1QG ("**the property**")

Land Register Title Number:- **DMF19081**

The Parties:-

Christopher Rodger and Fiona Wood, residing at Fichjo, Quarry Road, Locharbriggs, Dumfries, DG1 1QG ("**the tenants**")

And

Victor Balwinder Singh and Elayne Margaret Singh spouses, residing at Beechwoodbank, Nithbank, Dumfries as the partners of and trustees for the firm of V&E Properties of Beechwoodbank, Nithbank, Dumfries ("**the landlords**")

The Committee comprised:-

Mr James Bauld	- Chairperson
Mr Alan English	- Surveyor member
Mr Tom Keenan	- Housing member

Decision

The Committee unanimously decided that the landlords had not failed to comply with the duties imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the 2006 Act"). The Committee accordingly proceeded to dismiss the application.

Background:-

1. By application dated 25 November 2010, the tenants applied to the Private Rented Housing Panel ("PRHP") for a determination that the landlords had failed to comply with the duties imposed by Section 14 (1) of the 2006 Act.
2. Receipt of the application was acknowledged by the PRHP on 2 December 2010. Subsequent to receipt of the application, the tenants were required to serve a full notice of all alleged outstanding repairs upon the landlords. That having been done appropriate notice of referral dated 20 December 2010 was made to both the landlords and the tenants confirming that the President of the PRHP had decided to refer the application to a Private Rented Housing Committee.
5. On 28 January 2011 the Committee served notice of referral on both parties all in terms of the relevant provisions of the 2006 Act. The notice of referral indicated that an inspection and hearing would take place on 23 February 2011 at 12.00 mid day.

The Inspection

6. The Committee inspected the property on 23 February 2011. The tenants were present during the inspection. The landlords were represented by both Mr Victor Singh and Mrs Elayne Singh the partners of the landlords firm.

Summary of issues

7. The issues complained of in the application before the Committee can be summarised as follows:-
 - The property was in a general state of minor disrepair
 - The wood burning stove within the back lounge was not functioning
 - The cupboard doors in the kitchen were loose
 - Water marks on ceilings in various rooms throughout the property
 - Condensation within the bathroom and en suite shower room in the main bedroom
 - Problem with the front door
 - One slate missing from the roof to the rear of the property

- Some minor pointing works to the exterior window ledges and roof ridges in the property
- Broken exterior door handle on the patio door from the rear lounge to the garden
- General complaint regarding condition of garden

Evidence

8. The evidence before the Committee consisted of:-

- Application form;
- Copy Tenancy Agreement
- Extract of title from the Land Register
- Copy correspondence between parties; and
- Copy correspondence sent by parties to the PRHP

The Hearing

9. On conclusion of the inspection the Committee held a hearing within the Station Hotel in Dumfries. Both tenants were present at the hearing and both Mr and Mrs Singh from the landlords were also present during the hearing.
10. At the hearing the parties agreed that the tenancy had commenced in February 2009 and was a short assured tenancy based on six monthly periods. It had been reviewed and was due to end in July 2009. The parties confirmed that no formal notices appear to have been served to end the tenancy. The tenants occupy the property with their son Jordan.
11. The first issue dealt with at the hearing was the problem with the fire in the back sitting room. The fire consisted of a wood burning stove which was no longer functioning. The tenants confirmed that they had moved into the property in February 2009 but had not used this stove until near Christmas that year and had only used it for approximately two and a half weeks. After using it they became concerned that it may not be functioning correctly. The tenants confirmed that they had removed the flue from the wood burning stove which entered the wall and the chimney stack of the property. They did this when they heard what transpired to be birds within the flue. The landlords indicated that so far as they were concerned they intended to remove the stove. They did not regard it as being required to provide heat to the house as it had a full central heating system. They had no intention of effecting repairs to it.
12. The parties then turned to the various minor matters which appeared to be outstanding. The tenants made reference to the slate missing from the rear of the roof and pointed out there were water marks on the ceiling in various rooms. The tenants also indicated that the front door

was a problem and advised that it was cracked in various places. The tenants also indicated that there were minor problems with décor within the property. At that point the landlords indicated that they were aware of a snagging list and that they believed there had been a continual list of jobs provided. The property had been newly built and the landlords regarded the matters being raised by the tenants as minor matters which were simply snagging matters. The landlords also put forward the possibility that the damage to the doors within the kitchen were caused by tenant misuse. Only two doors were affected.

13. With regard to the allegation of the condensation problem within both bathrooms, the landlords indicated that they had fitted a second extractor fan within both which they believed would have overcome the condensation problem.
14. The tenants also complained that the vent pipe from the bathroom through the loft did not go through the roof of the property. It required to be connected to a further pipe by means of a flexible pipe. The landlords indicated that they had offered to carry out this work but had been unable to do so because the tenants had been using the attic to store substantial amounts of personal property and that access to the pipe was almost impossible. The landlords indicated that the tenants had been told that they should not use the loft to store properties as it was not designed to bear weight. They indicated that the roof trusses were not designed to be floored and to be used as a storage area.
15. The tenants also pointed out during the inspection a number of minor difficulties with skirting boards and door facings which appeared to have come away slightly from their relevant walls. There were also complaints about minor decorative items required to window ledges, doors and walls.
16. The final matter raised by the tenants was the condition of the garden ground attached to the property which they regarded as exceptionally boggy and made the garden almost unusable.

Findings of Fact

17. Having considered all the evidence the Committee found the following facts to be established:-
 - a) The subjects of let are a detached dwellinghouse of very recent construction. The property consists of living room, dining room, lounge and kitchen on the lower floor with four bedrooms on the upper floor and bathroom. One of the bedrooms has an en suite shower room. The property is situated in Lochaberbriggs which is a fairly rural area close to Dumfries.

- (b) The tenants occupy the property with their child. The property is generally in very good condition being a fairly new build property.
- (c) Within the property there are a number of minor defects. Many of these defects are of the type which can be expected within a new property in the course of its first year or so. Many of the defects complained about by the tenants were simply decorative.
- (d) Within the kitchen of the property, two of the doors of the kitchen units are loose. They require minor repair to make them secure.
- (e) Throughout the property there are many minor items which require decorative or cosmetic repairs including some skirting boards and door facings.
- (f) Externally there are some minor repairs required to pointing of window ledges and one tile required to be replaced on the roof.

Reasons for Decision

- 18. The Committee considered the various issues set out by the parties and determined that the property did meet with the repairing standard as set out in the Act. The standard does not require a level of perfection. The standard indicates that a property requires to be "reasonably fit for human habitation" and that appliances/fixtures require to be in "a reasonable state of repair".
- 19. The Committee took the view that the property was generally in a reasonable state of repair and that although there were a variety of minor decorative or minor repairs required none of these repairs was sufficient to mean that the property was not reasonably fit for human habitation nor did any of the individual matters cause the property to fall below the standard set out in the repairing standard.
- 20. The Committee were satisfied that the property was generally wind and watertight and reasonably fit for human habitation.
- 21. The Committee took the view that generally the structure and exterior of the house was in a reasonable state of repair. The existence of one missing tile from the roof did not mean that the property fell below that standard.
- 22. The Committee took the view that the installations in the house for the supply of water, gas, electricity and for sanitation, space heating and heating water were in a reasonable state of repair and were in proper working order.

23. The Committee took the view that the wood burning stove within the rear sitting room was not an installation in the house for space heating or heating water. The tenants confirmed that they had not used the fire for a period of nine months after moving in.
24. Accordingly, although the Committee were satisfied that there are minor snagging items which require to be attended to within the property, the property did not fail to meet the repairing standard and accordingly the Committee were not able to make any Repairing Standard Enforcement Order.
25. The decision of the Committee was therefore to dismiss the application and the decision of the Committee was unanimous.

Rights of Appeal

26. A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.
27. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP of the Committee which made the decision.

Effects of Section 63

28. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.

29. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed James Bauld

Date 14 March 2011

James Bauld, Chairperson

Signature of Witness [Signature]

Date 14 March 2011

Name, address and occupation of the witness (please print):-

NATRAE WALKER SENIOR COURT ADMINISTRATOR
7 West George Street
Glasgow, G2 1BA

