



Decision by the Private Rented Housing Committee

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

Title Number DMF14630

Re: The residential dwellinghouse at

**80 Glebe Street
Dumfries
DG1 2LH**

("the Property")

The Parties:-

Mr J Pilcher and Mrs G Pilcher resident at the Property

("the Tenants")

and

**Mr and Mrs J Ford
Fernbank
60 Marjoribanks Street
Bathgate
EH48 1AH**

("the Landlords")

The Committee's Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords had complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, and taking account of the evidence before it, unanimously determined that the Landlords had complied with the duty imposed by Section 14(1)(b).

The Background

- 1. On 22 February 2011 the Tenants applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlords had failed to comply with the duties imposed by Section 14(1)(b) of the Act.**

2. Following receipt of the Tenants application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee in accordance with Section 22(1) of the Act.

The Application

3. In their application the Tenants alleged that the Landlords had failed to comply with their duty to ensure that the Property met the Repairing Standard (as defined in the Act). It was submitted that the Landlords had failed to ensure that the Property was wind and water tight and in all respects reasonably fit for human habitation; that the structure and exterior of the Property (including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order; that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water were in a reasonable state of repair and in proper working order; the fixtures, fittings and appliances provided by the Landlords under the Tenancy Agreement were in a reasonable state of repair and in proper working order; any furnishings provided by the Landlords under the tenancy were capable of being used safely for the purpose for which they were designed; the Property had satisfactory provision for detecting fires and giving warnings in the event of fire or suspected fire.
4. In particular the Tenants submitted in their Application Form that damp proofing was required in the inside and outside walls and redecoration of most rooms was required.

The Evidence

5. The Committee had before it various documents including documents from the Land Register, a copy of the Application Form, a copy of the Tenancy Agreement, photographs and various letters sent by the PRHP to the Tenants and to the Landlords. The Committee also had written submissions from the Tenants and from the Landlords. At the Hearing further documents were presented on behalf of the Landlords. Copies of these documents were made available to the Tenants.

The Inspection

6. The Committee inspected the Property on 17 May 2011 at 10.00am. The Tenants were present at the inspection as was Mr Ford.

The Hearing

7. A Hearing was arranged for 11.00am in the Station Hotel, Dumfries. The Tenants and Mr Ford attended the Hearing.
8. The Chairman welcomed the parties to the Hearing and reminded them of the issues to be considered by the Committee. The evidence at the Hearing can be summarised as follows.

9. The Committee asked Mr and Mrs Pilcher when they first became aware of the problems with dampness within the Property. Mrs Pilcher advised the Committee that they first noticed the dampness in the bedroom in September 2010. They explained that having repositioned a wardrobe (in the bedroom) they noticed an area of dampness that had been concealed by the wardrobe. They advised the Committee that in general the dampness was worst in the winter months. They were concerned that the dampness might have an adverse effect on the health of their young child. Mr and Mrs Pilcher confirmed that they didn't open the bedroom window at night. They acknowledged that the Landlords had provided a dehumidifier and a condensing clothes dryer for their use. Moreover the Landlords had provided some funds to assist with the running costs of the dehumidifier. Mr and Mrs Pilcher told the Committee that a frozen pipe had resulted in water ingress to a carpet. They had dried the carpet in the living room during the day and in a communal area at night.
10. Mr Ford referred us to his written submissions, reminding us that a full damp course to the outer walls had been applied by Richardson and Starling in March 1989. This work was guaranteed for 30 years. Richardson and Starling had revisited the Property in January 2008 following a report of condensation problems from the previous tenant but had found that no further treatment was required. In October 2008 Richardson and Starling had carried out damp proofing of the internal wall (between the lounge and the bedroom). They had also suggested that the Tenants use a de-humidifier and the Landlords had supplied one. Mr Ford advised that on moving into the Property in October 2009 the Tenants had been asked to refrain from drying clothes on radiators.
11. Mr Ford acknowledged that on visiting the Property in December 2010 he had observed mould in the external wall of the bedroom. He had discussed this matter with Richardson and Starling (in January 2011) but had been told that the problem was one of condensation arising from the Tenants use of the Property. Richardson and Starling had been reluctant to carry out any further investigations and so he (Mr Ford) had asked a representative from G M Thomson (Surveyors) to visit the Property. The visit had been delayed because the representative (Mr Telford) had been absent from work as a consequence of ill health. In any event Mr Telford had visited the Property in February 2011 and had recommended application of a "mould killer". The appropriate treatment and redecoration had been carried out in March 2011. Mr Telford had agreed to carry out routine visits to the Property to check for signs of dampness.
12. Mr Ford made available to the Committee a letter of 8 January 2008 from Richardson & Starling, a letter of 31 March 2001 from Allied Scotland (previously G M Thomson) and a copy of an e-mail of 16 May 2011 from Mr Telford. Mr and Mrs Pilcher were provided with copies of these documents and invited to comment on them.
13. The Committee advised Mr Ford that the adjoining properties had vents in the front facing external walls and it appeared likely that a similar vent

in the Property was blocked by gravel. The Committee advised that such vents were designed to ventilate the area under the floorboards and suggested that any blockage of the vent be removed.

Summary of the issues

14. The issue to be determined by the Committee was whether the Landlords had complied with the requirements of the Act in ensuring that the Property met the Repairing Standard.

Findings

15. The Committee found the following facts to be established:
 - On or around 23 September 2009 the Tenants and the Landlords entered into a Tenancy Agreement that related to the Property.
 - The Property is a two-room ground floor flat in a two-storey tenement building. The Property comprises a bathroom, kitchen, living room and bedroom.
 - The bedroom window opens and is in a reasonable state of repair and in proper working order.
 - A full damp course to the outer walls was applied by Richardson and Starling in March 1989.
 - In October 2008 damp proofing of the internal wall (between the lounge and the bedroom) was carried out.
 - The Landlords have supplied the Tenants with a condensing clothes dryer and a de-humidifier.
 - In March 2011 "mould killer" was applied to the area of mould on the bedroom wall and the treated area was then redecorated.
 - There is some evidence of dampness in the area immediately above the skirting board in the external wall of the bedroom but this dampness is not significant, is not rising damp or penetrating damp and is likely to be condensation.
 - Having regard to the age and character of the Property, the decoration of the Property is reasonable.
 - The Property meets the Repairing Standard.

Reasons for the Decision

16. The Committee had little reason to doubt that a full damp course had been applied to the outer walls of the Property in March 1989 and that in October 2008 damp proofing had been applied to the internal wall

between the lounge and the bedroom. We found no evidence of rising damp in the bedroom and we had no reason to doubt that the damp proofing was effective.

17. The Committee accepted that there was evidence that there had been mould in the external wall of the bedroom. This was confirmed by Mr and Mrs Pilcher at the Hearing and was depicted in the photographs made available to the Committee. In any event, Mr Ford accepted that he had seen the mould on visiting the Property. The Committee accepted that Mr Ford had taken prompt action to remedy matters but his efforts had been frustrated by the ill health of Mr Telford. However appropriate action had been taken to eliminate the mould. We accepted that the area of mould in the bedroom was treated and repainted in March 2011. In the course of the inspection the Committee tested the external wall of the bedroom with a Protimeter and found no evidence of significant dampness. It was clear that any dampness was not rising damp or penetrating damp and was likely to be condensation. To minimise the effects of condensation the Committee suggest that a number of measures might assist reduce the effects of condensation. Such measures could include ensuring that the bedroom is properly ventilated, the Property is adequately heated, wardrobes/cupboards are ventilated, a space is left between furniture and the walls and clothes are not dried on radiators.

Decision

18. The Committee determined that the Landlords had complied with the duty imposed by section 14(1) (b) of the Act.
19. The decision of the Committee was unanimous.

Right of Appeal

20. A Landlord(s) or Tenant aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63

21. 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. 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..... **R Handley** Date..... 26 May 2011
Chairperson