



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

**prhp Ref:** PRHP/AB24/133/10

**RE:** Property at 113 Spital, Aberdeen, AB24 3HX ("the Property")

### **The Parties:-**

**KATHERINE ARLOW and KELLY LARKEN** residing at 14 Baylands, First Avenue, Bangor, BT25 JET, County Down, Northern Ireland and 6 Walnut Close, Heathfield, East Sussex, TN21 8YL respectively (assisted by Mr Paul Larken also of 6 Walnut Close, Heathfield, East Sussex, TN21 8YL) ("the Tenants")

**STEPHEN JOHN PATMORE and LINDA ANNE PATMORE**, Spouses residing together at Broompark, 101 Liberton Drive, The Braids, Edinburgh, EH16 6TH ("the Landlords")

### **Decision**

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by both the Landlords and the Tenants at the hearing, determined that the Landlords had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

### **Background**

1. By application dated 1<sup>st</sup> October 2010 the Tenants applied to the Private Rented Housing Panel for a determination of whether the Landlords 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 Tenants stated that the Tenants considered that the Landlords had failed to comply with his duty to ensure that the Property meets the repairing standard and in particular that the Landlords had failed to ensure that:-
  - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
  - (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
  - (c) The installations in the Property 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;
  - (d) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
  - (e) Any furnishings provided by the Landlords under the tenancy are capable of being used safely for the purpose for which they are designed;
  - (f) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

3. By letter dated 22<sup>nd</sup> October 2010 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 Landlords and the Tenants.
5. Following service of the Notice of Referral both the Tenants and Landlords made numerous further representations to the Committee.
6. The Private Rented Housing Committee (consisting of Mr E K Miller, Chairman and Legal Member; Mr C Hepburn, Surveyor Member; and Mr M Scott, Housing Member, accompanied by the Clerk, Mr Robert Shea) inspected the Property on the morning of 22<sup>nd</sup> February 2011. Ms Larken was present for the Tenants and the Landlords were both present during the inspection.
7. Following the inspection of the Property, the Private Rented Housing Committee held a hearing at Inspire Conference Centre, Beach Boulevard, Aberdeen and heard from both the Tenant and her father and the Landlords. The Landlords represented themselves.
8. The Tenant's father submitted that as far as they were concerned all of the outstanding items of repair had been dealt with and accordingly they were satisfied that the Property now met the repairing standard.
9. The Landlords submitted that they were happy that they had carried out the works. They felt there had been an issue in relation to a lack of notification to them as to exactly what works were required. They confirmed, however, that they were happy to deal with any repairs required but felt that they had dealt with all the items in this case in any event.

#### **Summary of the issues**

10. The issues to be determined are:-
  - a. Whether there was an infestation of fleas within the Property.
  - b. Whether portable appliance testing required to be carried out.
  - c. Whether repairs to the kitchen units were required.
  - d. Whether the shower was in proper working order.
  - e. Whether the smoke alarm was in proper working order.

#### **Reasons for the decision**

11. The Committee based its decision on the inspection it carried out at the Property on 22<sup>nd</sup> February 2011.

It was apparent that there was no infestation of fleas at the point of inspection.

In relation to portable appliance testing, the Committee noted that whilst this was recommended it was not an obligation and was not necessary to meet the repairing standard. The Tenant had indicated during the course of the inspection that there were no difficulties with any electrical items within the Property.

In relation to the kitchen unit, it was apparent that this had become detached from the wooden baton holding it to the wall. This had been reattached by the Landlords joiner and met the repairing standard as at the date of the inspection.

In relation to the shower, a new shower had been installed and the Committee were satisfied that it was in proper working order.

In relation to the smoke alarm at the Property the Landlords had had a new battery installed and had had it serviced. Accordingly it met the repairing standard as at the date of the inspection.

The Committee were somewhat surprised that the inspection and Hearing had been required to go ahead. It appeared that all the works had been done some time in advance of the Hearing and it was unfortunate that the parties had not communicated this to each other and agreed that everything was in order. The Tenant's father was of the view that he had advised the PRHP Office in Glasgow but had been advised it would still be appropriate for them to attend. The Chairman of the Committee indicated he would investigate whether there had been any breakdown in communication in relation to this matter. The Committee however were satisfied that the Property met the repairing standard and on that basis intended to take no further action.

#### **Decision**

12. The Committee accordingly determined that the Landlords had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
13. The decision of the Committee was unanimous.

#### **Right of Appeal**

14. **A Landlords or Tenants 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**

15. 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.

**E Miller**

Signed ..... Date 3/3/2014  
Chairperson