



DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE
UNDER SECTION 24(1)
OF THE HOUSING (SCOTLAND) ACT 2006**

In connection with

**Property at 7 Sighthill Drive, Edinburgh EH11 4QW (hereinafter referred
to as “the House”)**

**Marek Kroll, residing at 7 Sighthill Drive, Edinburgh EH11 4QW
(hereinafter referred to as “the Tenant”)**

**Louis (otherwise Ted) Baigan, 19 Old Dalkeith Road, Edinburgh EH16 5TE
(hereinafter referred to as “the Landlord”)**

PRHP REFERENCE PRHP/RP/16/0223

DECISION

The Committee, having made such enquiries as are fit 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 (hereinafter referred to as “the Act”) in relation to the House, and taking account of the evidence led on behalf of the parties at the hearing and of the written documentation attached to the application and submitted by the parties, determined that the Landlord had not failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application received on 21 June 2016 (hereinafter referred to as “the Application”) the Tenant applied to the Private Rented Housing Panel (hereinafter “the PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing

standard and, in particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

*“(c) 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,
(d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order
(e) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed,”*

The Tenant complained of a number of defects in the House.

By letter of 15 September 2016, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

The Committee comprised the following members:

John McHugh, Chairperson
Charles Reid Thomas, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

The Committee inspected the House on 27 October 2016. The Landlord and Tenant were both present. The Tenant was accompanied by Mandy Burrows of the Edinburgh Housing Advice Partnership and the Landlord was accompanied by a Polish interpreter employed by him.

Following the inspection, the Committee held a hearing at George House, George Street, Edinburgh. The Committee considered the written evidence submitted by the parties and heard representations from both the Landlord and the Tenant. Ms Burrows assisted the Tenant and the Landlord was assisted by his sister, Joyce Sheehan. The Committee had the assistance of its own Polish interpreter. The services of the interpreter were employed for the full extent of the hearing as, while the Tenant spoke and understood English reasonably well, he expressed a preference to have the benefit of the interpreter.

Submissions at the Hearing

Dampness

The Tenant reported dampness in the bathroom and in the kitchen. He referred the Committee to photographs which he had taken previously. He reported that he had since decorated the affected areas and no symptoms of dampness had recurred in the months since redecoration. He highlighted flaking paintwork on kitchen units which he attributed to dampness. The Landlord denies that there has ever been dampness. He believes any problems which the Tenant has experienced relate to condensation from the Tenant's lifestyle including drying clothes indoors and a failure to open windows.

Exposed wiring/Electrical Consumer Unit

The Tenant explained that the exposed wiring had been at the consumer unit and had been dealt with at the time when the new consumer unit had been installed. The Tenant is happy with the new wiring and consumer unit. The Landlord's position is that there was nothing wrong with the previous arrangements but that he had voluntarily upgraded the consumer unit.

Fridge/Freezer

The Tenant complains that the fridge/freezer supplied by the Landlord did not work properly and so he disposed of the old one and replaced it with a new, working one at his own expense. The Landlord advises that the old fridge/freezer worked well.

Boiler

The boiler has recently been replaced by the Landlord and the Tenant is entirely happy with it and with the current heating and hot water arrangements. The Landlord again maintains that the old boiler worked well but that he has voluntarily upgraded the boiler.

Windows

The windows have recently been replaced by the Landlord and the Tenant is entirely happy with them. Again the Landlord maintains that the old windows were in good condition but that he has chosen to replace them.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

Findings in Fact

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

The Landlord and the Tenant entered into a Tenancy agreement in respect of the House on 19 January 2015.

The Landlord was recorded on the Lease as Louis Baigan.

Louis Baigan is the registered owner of the House.

The Tenant has occupied the House since 19 January 2015 and remains in occupation.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defects in the House which are now the subject of the Application by recorded delivery letter dated 8 July 2016.

The inspection on 27 October 2016 revealed:

The property is a first floor flat in a block of four.

Visual inspection and testing with a damp meter revealed no evidence of dampness.

A new boiler has been installed in the kitchen and the Tenant reported that it is working satisfactorily.

All electrical installations appeared to be in good working order. A new consumer unit has been installed and no exposed wiring is apparent.

A new fridge freezer is present and is in working order.

Modern double glazing is present throughout and the Tenant reports that he is happy with the windows.

A schedule of photographs taken at the inspection is attached.

Reasons for the Decision

Dampness

There was no evidence of dampness on inspection. The flaking paintwork on the kitchen units is not caused by dampness but may have been caused by condensation from cooking. The historic condition of the House shown in the photographs produced by the Tenant might equally be caused by condensation as dampness.

Exposed wiring/Electrical Consumer Unit

A new consumer unit has been fitted. There is no exposed wiring. The Tenant is happy with the new wiring and consumer unit.

Fridge/Freezer

There is present in the House a fridge/freezer which the Tenant confirms is in good working order.

Boiler

The boiler has recently been replaced by the Landlord and the Tenant is entirely happy with it and with the current heating and hot water arrangements.

Windows

The windows have recently been replaced by the Landlord and the Tenant is entirely happy with them.

Observations

As was explained to the parties at the hearing, the Committee is only able to base its decisions upon the condition of the House at the date of the inspection. Evidence as to historic problems which may or may not have existed and which may have been addressed prior to the inspection cannot be taken into account in our decision.

Decision

The Committee, considering the terms of section 13(3) of the Act, determined that the Landlord had not failed to comply with the duty imposed by section 14(1)(b) of the Act.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

John McHugh
Chairperson

Date: 14 November 2016

Photographic Record of: 7 Sighthill Drive, Edinburgh EH11 4QW
Inspection 27.10.2016



7 Sighthill Drive



Retiled and decorated bathroom, no evidence of damp



New Fuse Box



New windows throughout property, all properly installed. No evidence of damp in kitchen.



New windows installed.



New boiler installed.