



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

prhp Ref: PRHP/RP/13/2

Re : Property at 69 Dee Gardens, Dundee, DD2 4JE ("the Property")

### The Parties:-

GRAEME ALLAN RAMSAY formerly residing at 69 Dee Gardens, Dundee ("the Tenant")

GARY WALLACE c/o Korlet Lettings, 50 Castle Street, Dundee, DD1 3AQ ("the Landlord")

### Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord 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 the parties, determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

### Background

1. By application received 7 May 2013 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord 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 Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord 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 furnishings provided by the Landlords under the tenancy are capable of being used safely for the purpose for which they are designed;
3. By letter dated 7 August 2013 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 Landlord and the Tenant.

5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than his original application. The Landlord (by letter dated 13 August 2013), made written representations to the Committee.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member; and Mr D Godfrey, Surveyor Member; and Mr J Wolstencroft, Housing Member) inspected the Property on the morning of 19 September 2013. The Tenant was not present, his tenancy having previously been terminated. The Landlord was present during the inspection along with a representative from his letting agent, Korlet.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Douglas Community Centre, Dundee and heard from the Landlord. The Landlord was not represented but was again accompanied by his agent Korlet. The Tenant was not present or represented.
8. There were no additional representations from the Tenant. The Tenant's written submission was that the bed at the Property was broken. The boiler was not working and turned on and off randomly. The Tenant alleged the heating was not working and that the bath was unhygienic as water flowed back into it. The Tenant also alleged that there was water rising back into the washing machine and also that there was a broken tile in the kitchen. As a result of all these alleged defects the Tenant was of the view that the Property did not meet the repairing standard. The Landlord had submitted that he was not aware of a number of these issues. As an example, in relation to the boiler/heating, this was a manual system and therefore could not turn itself on and off randomly. As far as the Landlord was concerned the Property was in good order and met the repairing standard.

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

9. The issues to be determined were:-
  - (a) Whether the bed at the Property was broken.
  - (b) Whether the boiler/water heater was in proper working order or was turning on and off at random.
  - (c) Whether the heating was in proper working order and met the repairing standard.
  - (d) Whether the bath was unhygienic and was not draining properly.
  - (e) Whether water was rising back into the washing machine.
  - (f) Whether there was a broken tile in the kitchen.

#### **Findings of fact**

10. The Committee finds the following facts to be established:-
  - (1) The bed, if it had been broken, had, in any event, been replaced with a new bed.
  - (2) The boiler the Tenant had complained of was, in fact, a water heater and appeared to be in proper working order. It did not appear possible for this to turn on and off at random.
  - (3) The heating was in proper working order.
  - (4) The bath was draining properly and appeared to be satisfactory.
  - (5) The Committee was satisfied, on the balance of probabilities, that the washing machine was in proper working order.

(6) Whilst there had been a broken tile in the kitchen it had now been replaced.

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

11. The Committee based its decision primarily on the evidence obtained during the course of its inspection.

The Landlord indicated that as far as he was aware the bed had not been broken when he had provided it at the start of the tenancy. In any event a new bed had been provided to the new Tenant within the Property and the old bed had been removed. Accordingly the Committee were satisfied that there was no breach of the repairing standard ongoing in relation to this particular issue.

In relation to the boiler complained of this was, in fact, a water heater. It was clearly a manual system. The Committee asked the Landlord to turn it on. The Landlord did so and it appeared to be in proper working order and provided hot water.

The Committee tested the heating within the Property. There was an electric wall mounted heater in the bedroom. This was in proper working order. There were also storage heaters in the hall and lounge. The hall radiator had not been switched on and so it was not possible to test during the course of the inspection whether it was working. The lounge storage heater was on and was working. The Committee was satisfied that, on the balance of probability, the hall heater was working also. It was clear that the lounge heater was working. There were wall mounted dimplex heaters in the kitchen and bathroom and these were also found to be in proper working order.

The Committee inspected the bath. This was draining properly and appeared to be in reasonable condition. There did not appear to be any breach of the repairing standard. The Committee were unable to test the washing machine to see if water was rising back in to it. The Landlord confirmed that he had used the washing machine once whilst carrying out works at the Property and it had worked satisfactorily. A new tenant had moved in and had not raised any issues. This was confirmed by the letting agent. On the balance of probabilities the Committee was satisfied that there was no issue in relation to the washing machine and that it met the repairing standard.

In relation to the broken tile in the kitchen this had been replaced and accordingly there was no ongoing breach of the repairing standard.

Overall the Committee found that the complaints of the Tenant were largely without merit or foundation. The Committee were satisfied that the Property was in good condition and suitable for letting and met the repairing standard.

Accordingly the Committee determined that the Landlord had not breached the repairing standard and that there had been no breach of the Act.

#### **Decision**

12. The Committee accordingly determined that the Landlord 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 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**

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.

Signed **E Miller** Date *26/9/2013*  
Chairperson