



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/RP/14/0074

Re:- Property at 2 Faskine Avenue, Airdrie, ML6 9DX ("**the property**")

Land Register title No: LAN9516

The Parties:-

Miss Gillian Dunlop, formerly residing at 2 Faskine Avenue, Airdrie, ML6 9DX ("**the tenant**")

And

Mr David Logan, residing at 45 Braedale Avenue, Airdrie, ML6 9LP AND Miss Pamela Logan residing at 61 Monks Road, Airdrie, ML6 9QW ("**the landlords**")

The Committee comprised:-

Mr James Bauld	- Chairperson
Ms Carol Jones	- Surveyor member
Mr Scott Campbell	- Housing member

Decision-

The Committee unanimously decided that the property complied with the repairing standard set out in Section 13 of the Housing (Scotland) Act 2006 ("the 2006 Act") and that the landlord had not failed to comply with any of the duties imposed upon the landlord by Section 14 of the said Act. The Committee accordingly decided not to make any repairing Standard Enforcement Order (RSEO) in terms of Section 24 (2) of the 2006 Act.

Background:

1. By application dated 7 March 2014, the tenant applied to the Private Rented Housing Panel for a determination that the landlord had failed to comply with the duties imposed by Section 14 (1) (b) of the 2006 Act.
2. In the application, the tenant stated that she considered that the landlord had failed to comply with the duty to ensure the house met the repairing standard and in particular the house suffered from a number of defects listed in the application. The tenant complained that the boiler required to be repaired, that the property suffered from mould, condensation and dampness and that there was water ingress at the windows
3. After sundry correspondence between the tenant and the Private Rented Housing Panel, evidence of notification of these defects to the landlord was provided.
4. The President of the PRHP decided to refer the application under Section 22(1) of the 2006 Act to the Private Rented Housing Committee (the Committee).
5. On 7th April 2014, the clerk to the PRHP received an email from Linsey Soutter, the solicitor acting for the tenant indicating that the tenant was no longer residing in the property. The tenant claimed that she had voluntarily vacated the property in March 2014. The tenancy of the house had thus been lawfully terminated.
6. On 14 April, the president of the PRHP issued a Minute confirming that although the tenancy had been lawfully terminated and that accordingly the application should be treated as withdrawn in terms of schedule 7 of the Housing (Scotland) Act 2006, the application would be referred to a committee in view of the serious nature of the alleged items of disrepair. Intimation letters were issued to the tenant and her solicitor notifying them of this decision and indicating that as the tenancy had ended the tenant was no longer a party to the application
7. On 23 April 2014 notice of referral of the application to the Committee was served upon the landlords and their representatives. Notice was sent to Mr David Logan, one of the landlords, at two different addresses, namely 45 Braedale Avenue, Airdrie, ML6 9LP and at 16 Banff Avenue, Airdrie, ML6 9QY. Intimation letters were issued to the tenant and her solicitor indicating that as the tenancy had ended the tenant would no longer be a party to the application
8. On 22 May 2014, the Committee served notice of referral of their intention to hold an inspection of the house and a hearing in respect of the application. It was indicated to the landlord that the inspection would take place on 12 June 2014 at 10 am and that the hearing would take place on the same date at 11.30 at the PRHP offices in Glasgow.
9. The Committee appointed to inspect the property attended at the property on the morning of 12 June 2014. Access was obtained to the property. The landlords were present at the inspection together with their father and a member of staff from Independent Estate Agents who acted as the letting agent for the property. It was noted that the property was being advertised for sale.

Evidence

10. The evidence before the Committee consisted of the application form of the tenant, the copy tenancy agreement, extract of title from the Land Register, various emails and letters between the tenant and the landlords and their respective agents relating to issues of claimed disrepair. A copy of the gas safety certificate was faxed to the PRHP offices between the inspection and the hearing and was considered by the Committee during their deliberations.

Summary of Issues

11. The issues complained of by the tenant in the application before the Committee were that the boiler required to be repaired, that the property suffered from mould, condensation and dampness and that there was water ingress at the windows. During the course of the inspection, the landlords were present.

The Hearing

12. Neither the landlords nor the tenant attended the hearing.

Findings of Fact

(a) The subjects of let comprise an upper floor flat within a four in a block building. The flat contained a living room, two bedrooms, kitchen and bathroom. The property is approximately 70-80 years old. It had garden ground to the side and rear. The property had a gas central heating system and UPVC double glazing.

(b) The Committee in its inspection could find no evidence of any substantial disrepair within the property. The property appeared to be in a reasonable state of repair. It appeared to be freshly decorated throughout. The members of the Committee carefully checked the windows within the property and found that they appeared to be functioning and there appeared to be no leaks. The committee were advised by the landlords that the windows had been replaced after the tenant had moved out. The committee could find no evidence of any dampness or mould existing within the property.

(c) During the course of the inspection, the committee were unable to establish whether the gas boiler was working. The landlords undertook to fax a copy of the current annual gas safety certificate to the PRHP offices to enable the committee to consider that during their deliberations.

(d) The gas safety record was dated 8 October 2013.. It was noted by the Committee that the gas engineer who had completed the certificate was from a company called DRC Spittall. The Committee noted that the gas safety certificate was dated within the last twelve months and accordingly complied with the relevant Gas Safety (Installation and Use) Regulations. A copy of the gas safety certificate is attached to this decision in accordance with the provisions of paragraphs 6(4) (c) of schedule 2 to the 2006 Act.

(e) DRC Spittall had also produced a report confirming that the boiler had been in working order at all times during the tenancy. Their report was dated 13 January 2014 and indicated that the problems which the tenant had claimed to have with the boiler had been caused by the tenant not having sufficient credit in the gas meter.

Reasons for Decision

- 13. The Committee could find no evidence of any ongoing failure to meet the repairing standard nor any failure to meet any of the duties incumbent on the landlord.
- 14. The Committee had carefully inspected the property. The Committee could find no evidence to support any of the allegations made by or on behalf of the tenant. The tenant was not present during the inspection. At the inspection the property was in a state of repair which more than met the repairing standard.
- 15. The decision of the Committee was therefore unanimous not to make an RSEO and to dismiss the application.

Rights of Appeal

- 16. 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.
- 17. 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

- 18. 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.
- 19. 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..... **J Bauld**
James Bauld, Chairperson

Date... *2 July 2014*

Signature of Witness... **N Walker** ...

Date... *2 July 2014*

Name: *NATALIE WALKER*

Address: 7 West George Street, Glasgow, G2 1BA

Designation: *SENIOR COURT ADMINISTRATOR*