



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

prhp Ref: PRHP/RP/14/0149

Re: Property at 340 Hilton Drive, Aberdeen, AB24 4PY ("the Property")

The Parties:-

MR and MRS ROSS DUNDAS formerly residing at 340 Hilton Drive, Aberdeen, AB24 4PY ("the Tenants")

MONIKA IWONA LOZOWSKA c/o Aberdeen Considine, Solicitors & Letting Agents, 7-9 Bon Accord Crescent, Aberdeen, AB11 6DN (represented by her agent Mr Andrew Sinclair of Aberdeen Considine, Solicitors & Letting Agents, 7-9 Bon Accord Crescent, Aberdeen, AB11 6DN ("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 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 dated 16 June 2014 the Tenants 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 Tenants stated that the Tenants 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 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.
3. By letter dated 8 July 2014 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 Tenants.
5. Following service of the Notice of Referral the Tenants made no further written representations to the Committee other than their original application. The Landlord had provided some information by email to the Committee regarding works that they had instructed/proposed to carry out.
6. The Private Rented Housing Committee, comprising Mr E K Miller (Chairman and Legal Member), Mr M Andrew (Surveyor Member) and Mr M Scott (Housing Member) inspected the Property on the morning of 11 September 2014. The Tenant was not present the tenancy having been terminated previously. The Landlord's agent was present during the inspection.
7. Following the inspection of the Property the Private Rented Housing Committee held a Hearing at The Credo Centre, St John Street, Aberdeen. The Tenant, Mr Dundas attended. The Landlord was neither present nor represented.
8. The Tenants submission, via their application, was that the Landlord had failed to keep the Property up to the repairing standard. The bathroom had mould which was caused by insufficient ventilation. There were issues with the exterior door and window to the cellar. The thermostatic controls on the radiators did not work. The Tenants had concerns regarding the fuse box. The sofa was in poor condition and the armrest was jagged and unsafe. The Tenants also complained that the ice box door in the fridge was broken. The Landlord refused to repair or replace these. When the Tenants had complained the Landlord, rather than comply with their legal obligations, had simply brought the tenancy to an end.
9. The Landlord's agent submitted during the inspection that various works had been carried out to the Property and that they were satisfied that the Property now met the repairing standard.

Summary of the issues

10. The issues to be determined:-
 - (1) Whether there is sufficient ventilation within the bathroom to comply with the repairing standard.
 - (2) Whether the exterior door to the cellar and the cellar window were adequate.
 - (3) Whether repairs were required to the thermostatic controls on the radiators sufficient to allow compliance with the repairing standard.
 - (4) Whether the fuse box required inspection and whether the electrical system within the Property was safe.
 - (5) Whether the sofa met the repairing standard or was unsafe.
 - (6) Whether the fridge met the repairing standard.

Findings of fact

11. The Committee found the following facts to be established:-
 - There was sufficient ventilation to the bathroom and there was no breach of the repairing standard.
 - The exterior door and window to the cellar met the repairing standard.

- There were sufficient thermostatic controls on all the radiators.
- The fuse box was adequate and met the repairing standard and the overall electrical system was safe and compliant.
- The sofa had been replaced and the current sofa met the repairing standard.
- The fridge had been replaced and met the repairing standard.

Reasons for the decision

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

The Committee inspected the bathroom. There was an opening window which might, of itself, be sufficient ventilation. However the matter was put beyond any doubt in that since the tenancy had been terminated the Landlord had installed an extractor fan. This was in proper working order at the date of entry and therefore the Committee was satisfied that at the date of inspection there was sufficient ventilation.

The Committee inspected the cellar door and window. Both of these were dated and were not in the best of condition. However they were sufficient given that they only related to an external storage area rather than a habitable part of the Property. The door was secure and the window was watertight. A sufficient padlock was on the door and a new motion sensitive sensor light had been installed above the cellar door. Accordingly the Committee was satisfied that there was no breach of the repairing standard.

The Landlord's agent confirmed that they had tested all the thermostatic controls on the radiator. Two of the controls had not been working and had been replaced by the Landlord.

The electrical system had been inspected and electrical installation condition report had been provided by the Landlord's agent prior to the Hearing. This had revealed one dangerous item (C1) and two urgent items (C2). The Landlord's agent produced further evidence prior to the hearing that all the C1 and C2 items had been attended to.

The sofa in the Property had been replaced and accordingly this also now met the repairing standard.

A new fridge had been installed and again this meant there was no breach of the repairing standard.

The Committee did not dispute that there may have been historic repairs that were required and that the Tenants application was a genuine and valid one. However the Committee's obligation was to assess the condition of the Property as at the date of the inspection. As at the date of the inspection, the Committee was satisfied that there were no breaches of the repairing standard and that the Property was in good order and repair. It was unfortunate that the parties had got to the stage where the tenancy had been terminated over the question of repairs however this was outwith the ambit of the Committee's jurisdiction.

The Committee was satisfied that the repairing standard had been met and that it need have no further involvement in this matter.

Decision

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

15. The opinion of the dissenting member was as follows:-

Right of Appeal

16. **A Landlord 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

17. 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 **23/9/14**
Chairperson