



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

Re 15 Pladda Crescent, Broomlands, Irvine, KA11 1DP being the subjects registered in the Land Register of Scotland under Title Number AYR67134 ('the Property')

The Parties:-

Miss Rodell Nicoll residing in the Property ('The Tenant')

Peter Easton residing at 2 Newfield Drive, Dundonald ('The Landlord')

REF:PRHP/RP/15/0270

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 Property, determined (1) that the Landlord has not failed to comply with the duty imposed by section 14(1)(b) of the Act in relation to the external alleged defects and (2) as the Tenant did not provide the Committee access to the interior of the Property at the inspection on 18th March 2016 she was deemed to have withdrawn the application in respect of the interior alleged defects.

Background

1. By application dated 5th October 2015 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord has 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 she considered that the Landlord has failed to comply with her duty to ensure that the Property meets the repairing standard. She advised that the Property is not wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order; the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order and any fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and proper working order.

In particular the application stated:-

- 2.1 Drive way block and gate just sitting on each other.
- 2.2 The porch above the front door falling down due to rot.
- 2.3 Downpipe out the back missing.
- 2.4 There is a hole in the kitchen ceiling due to a leak.
- 2.5 Before I moved in the lights do not work in the kitchen and living room.
- 2.6 The hall does not have hand rails on the stairs.
- 2.7 Living room socket hanging off.
- 2.8 Front door glass broken.
- 2.9 Gap in door
- 2.10 Windows are damaged.
- 2.11 Toilet window hanging down.
- 2.12 The house is freezing.
- 2.13 No Gas Certificate.

2.14 No hot water or heating.

3. The Tenant had notified the Landlord of the alleged defects by email notification dated 23rd September 2015.
4. The President of the Private Rented Housing Panel, having considered the application, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
5. The Committee members were Jacqui Taylor (Chairperson) and Carol Jones (Surveyor Member).
6. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the parties dated 13th January 2016 and invited the parties to complete a form indicating if they wish to attend a hearing to make oral representations and/ or submit written representations. The Tenant did not return the form and did not contact the PRHP office to advise if she wanted to make written or oral representations. The Landlord's agent sent written representations dated 2nd February 2016. They advised that the issues reported had been dealt with and they provided a valid Gas Safety Certificate. The Clerk to the Committee provided the Tenant with a copy of the said written representations but the Tenant did not provide any oral or written response.
7. The Clerk to the Committee sent the Tenant an email and letter dated 14th March 2016 reminding her that access was required for the inspection scheduled for 18th March at 10 am and advising her that if access was not provided the Committee may take the inference that she will be deemed to have withdrawn the application.
8. The Committee attended at the Property on 18th March 2016. The Property is a former Irvine Development Corporation mid terrace two storey property with integral garage. It was constructed in the 1970's and is located in a residential area approximately 2 miles east of Irvine town centre.

The Landlord's father Ken Easton was present at the inspection. The Tenant was not present and access to the interior of the Property was not made available to the Committee.

Whilst the Committee were unable to carry out an internal inspection of the Property they were able to view the exterior of the Property. A caravan was situated in the driveway of the Property. They noted that the caravan fitted tightly into the driveway and was situated close to the edges of the driveway. The brick and render gate post at the front of the Property to the left was cracked and the bricks and coping stone were out of alignment. The metal gate attached to the gate post was not secure and did not close properly. There was no porch to the front of the Property. There was a new downpipe at the rear of the Property. The front door of the Property was a white pvc unit with double glazed decorative central panels. The right hand panel appeared to be cracked on the inside pane.

Photographs were taken during the inspection and are attached as a Schedule to this report.

9. The Private Rented Housing Committee held a hearing Greenwood Conference Centre, Dreghorn. The Tenant did not attend. The Landlord's said representative Ken Easton attended the hearing. He explained that his son Peter Easton owns the Property. He referred the Committee to the written representations provided by his son dated 2nd February 2016. He had not personally seen inside the Property to confirm that details of the works carried out to the Property but he emphasised that his son's written representations stated that the repairs had been completed.

He also explained that the Tenant had caused the damage to the brick gate post and gate at the front of the Property when she moved the caravan into the driveway.

He confirmed that the porch (or more likely a canopy) at the front of the Property had been taken down by his son.

He also advised that the downpipe at the rear of the Property had been replaced.

In connection with the front door he explained that there had been an incident with the police earlier in the year and the police had to force entry. He suggested that the crack to the door may have been caused then.

10. Decision

10.1 Interior alleged defects.

The Tenant had not provided access to the interior of the Property and had been advised by letter from the Clerk to the Committee dated 14th March 2016 that the Committee may take the inference that she will be deemed to have withdrawn the application.

The Committee determined that they would deem the Tenant to have withdrawn the application in respect of the items that related to the interior of the Property as they were unable to inspect these items namely:

2.4 There is a hole in the kitchen ceiling due to a leak.

2.5 Before I moved in the lights do not work in the kitchen and living room.

2.6 The hall does not have hand rails on the stairs.

2.7 Living room socket hanging off.

2.8 Front door glass broken.

2.9 Gap in door

2.10 Windows are damaged.

2.11 Toilet window hanging down.

2.12 The house is freezing.

2.13 No Gas Certificate.

2.14 No hot water or heating.

In relation to the alleged defect to the front door whilst they could see from the outside of the Property that one of the central glass panels of the front door was cracked they were unable to determine if there was a gap and if the door was in proper working order as they were unable to inspect the door internally. The Committee was also unable to determine whether the observed cracks to the glazing were caused prior to the application or by the police.

In relation to the Gas Certificate the Landlord has provided a satisfactory current Gas Safety Record.

10.2 Drive way block and gate just sitting on each other.

The Committee acknowledged that the driveway gate post on the left side and gate are not in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006). However they accepted the Landlord's representations to the effect that the Tenant caused the damage when she was manoeuvring the caravan and consequently determined that the exception to the Landlord's repairing duty applies as the Tenant was responsible for the damage (Section 16(1)(b)(i) of The Housing (Scotland) Act 2006).

10.3 The porch above the front door falling down due to rot.

The Committee deemed this part of the application to have been withdrawn as the Landlord had removed the porch (or more likely a canopy).

10.4 Downpipe missing.

The Committee found that the downpipe at the rear of the Property had been replaced and accordingly they determined that the downpipe was in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

10.5 The Committee accordingly determined that the Landlord has not failed to comply with the duties imposed by Section 14(1)(b), of the Act, as stated.

11. The decision of the Committee was unanimous.

Right of Appeal

12. 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

13. 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 **J Taylor** Date 22nd March 2016
Chairperson

22/3/16

J Taylor



Schedule of photographs taken during the inspection (external only) of 15 Pladda Crescent, Broomlands, Irvine KA11 1DP by the Private Rented Housing Committee on the 18 March 2016.

Reference Number : PRHP/RP/15/0270



External view - Front elevation of property



Front Door - canopy removed



Front Door - Broken Glass panel - right side



Front Drive - Gate Post - left



Front Drive - Gate Post - left



Front Drive - Gate Post - right



Rear Elevation and timber fence



Rear Elevation



Rear Elevation showing down pipe