



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

prhp Ref: PRHP/RP/16/0004

Re : Property at 47D Reid Street, Dunfermline KY12 7EE ("the Property")

The Parties:-

**Frantisek Comorek, residing at 47D Reid Street, Dunfermline KY12 7EE ("the Tenant")
and**

**Paul Dzierzek, care of Pure Property Management, 141 Gilmore Place, Edinburgh EH3
9PW ("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, received on 13 January 2016, 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 the house is wind and water tight and in all other respects reasonably fit for human habitation.
3. By letter dated 25 January 2016 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 Landlord made written representations to the Committee dated 26 January 2016.
6. The Private Rented Housing Committee inspected the Property on the morning of 22 March 2016. The Tenant was present at the inspection. The Landlord was represented at the inspection by Mr Ashley Puren, Director of Pure Property Management.
7. Two photographs, taken at the inspection, are attached to and form part of this Statement of Decision.
8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Vine Conference Centre, 131 Garvock Hill, Dunfermline KY11 4JU. Neither the Tenant nor the Landlord was present or represented at the hearing.

9. The Committee comprised George Clark (Chair) and Geraldine Wooley (surveyor member).
10. The Tenant, in his application stated that water was coming through the ceiling of the Property. The Tenant had noticed water staining at the outset of the tenancy, but had been told by the Landlord's agent that repair work had been carried out on the roof and the problem had been fixed, but when it rained, water continued to come through the roof and there was mould on the wall where the rainwater was coming in. By e-mail dated 5 February 2016, the Tenant advised the Committee that the roof had been fixed on 29 January and that the Landlord's agent had offered to re-paint the wall when it had dried out, but in a further e-mail dated 8 February 2016, he told the Committee that the repair had only helped partially and that he did not wish to withdraw the application. By e-mail dated 17 February, the Tenant stated that water was again leaking through the roof and the skylight window. On 1 March 2016, the Tenant sent another e-mail, advising the Committee that a further repair had been carried out on the roof the previous day and that the skylight window had been sealed.
11. The Landlord's agent, in the written submission of 26 January 2016, stated that the roof of the Property had been overhauled in March 2015. The Tenant had moved in on 18 November 2015 and it was only when he reported it to the agent on 29 November, that the Landlord's agent was made aware that there was a continuing problem. There had been difficulty in obtaining the consent of the other owners of the tenement to carrying out further work and there was further delay caused by weather difficulties. As a result, it was not until the end of January that the repair work could be done.
12. The Tenant advised the Committee at the inspection that there had been no further problems since the latest repair work.

Summary of the issues

13. The issues to be determined were whether the Property met the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duties imposed on landlords by Section 14(1)(b) of the Act.

Findings of fact

14. The Committee finds the following facts to be established:-
 - The tenancy is a Short Assured Tenancy which commenced on 18 November 2015.
 - The Property comprises a small one-bedroom attic flat in a Victorian stone-built corner tenement of ground floor shops and residential flats above.
 - At the time of the inspection, the weather was sunny and dry and had been so for several days.
 - There was no evidence of water ingress at the time of the inspection.
 - The area of ceiling around and adjacent to the skylight window was tested with a moisture meter and the moisture readings were generally in the low range. There were, however a small number of spots below the wooden structural roof beam where high readings were noted. The first photograph attached to this Statement of Decision shows the moisture meter reading at one of those spots.
 - The area affected by the previous ingress of rainwater has recently been redecorated. The second photograph attached to this Statement of Decision shows the affected area as at the date of the inspection.

Reasons for the decision

15. The Committee accepted the Landlord's agent's statement that he had not been aware that the problem had not been solved in March 2015 until the Tenant moved in to the Property in November and the Committee was of the view that the Landlord responded as quickly as he could to the complaint and that the work was carried out as soon as reasonably practicable, given the need to obtain consents from other owners in the

tenement and the poor winter weather. The Committee noted that there was no evidence of ongoing water penetration and considered that the areas where the moisture meter readings were high are probably still drying out following the repair work carried out on or shortly before 1 March 2016 and the subsequent redecoration. Whilst the Committee does not propose to make a Repairing Standard Enforcement Order, it recommends that both parties monitor the ongoing drying-out process, to ensure that the latest repairs have been effective in making the Property wind and water tight.

Decision

16. The Committee accordingly determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act and that, accordingly, it would not make a Repairing Standard Enforcement Order as required by section 24(1).
17. The decision of the Committee was unanimous.

Right of Appeal

18. **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

19. 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
Chairperson

G Clark

..... Date 22 March 2016