



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

prhp Ref: PRHP/RP/16/0044

Re : Property at 18 Gladstone Place, Stirling, FK8 2NN  
Land Register Title STG44836 (“the Property”)

### The Parties:-

Miss Lucy Gibson, 18 Gladstone Place, Stirling, FK8 2NN (represented by her agent Mr James Gibson, 1 Tranter Crescent, Aberlady, Longniddry, East Lothian, EH32 0UF) (“the Tenant”)

Ms Colette Grant, St Bernard’s Cottage, 11 Mackenzie Place, Stockbridge, Edinburgh, EH3 6TS (represented by her agent, Mr Brian Grieve, Grant Property Solutions Limited, 14 Coates Crescent, Edinburgh, EH3 7AF)(“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 both the Landlord and the Tenants at the hearing, 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 1 February 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 Property is wind and watertight and in all respects reasonably fit for human habitation.
3. By letter dated 4 March 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 Tenant made no further written representation to the Committee other than their original application dated 1 February 2016. The Landlord (by email dated 21 March 2016), made written representations to the Committee.
6. The Private Rented Housing Committee (comprising Gillian Buchanan, Chairperson and Legal Member, and Ian Mowatt, Surveyor Member,) inspected the Property on the morning of 13 April 2016. Photographs were taken and a Schedule of Photographs is attached. The Tenant was present and represented by Mr Gibson during the inspection. The Landlord was represented by Mr Grieve during the inspection.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Stirling Enterprise Park, John Player Building, Stirling and heard from the Tenant who was represented by Mr Gibson. The Committee also heard from the Landlord's representative, Mr Grieve. The Landlord was not present.

8. The Tenant submitted as follows:-

(a) That there was no mould in the bedroom when the Tenant took occupation but that mould started to appear on the internal surface of the external wall the following month.

(b) That an unidentified surveyor attending the property in December 2015 on the instructions of the Landlord's agent verbally confirmed a problem with water penetration.

(c) That representatives of Stirling Council had visited the property in January 2016 and identified water penetration requiring further investigation.

(d) That the window vent had been replaced around 20 January 2016.

(e) That the bedroom window had previously been sealed shut but had been repaired mid/late January 2016.

(f) That her use of the dehumidifier had reduced and, in particular, that she had not used the dehumidifier in the last 2-3 weeks.

(g) That she did not require to clean mould from the walls as regularly as previously. She last cleaned the mould at the end of March 2016 and it had not recurred since.

(h) That she required to use the electric panel heater every second night from late evening until she woke up the following day which could be 2pm in the afternoon.

9. The Landlord submitted as follows:-

(a) That additional damp proofing works had been carried out at the property in 2014.

(b) That three professional firms had investigated the Tenant's complaints of water penetration and each had confirmed the problem to be condensation.

(c) That the Tenant had been given advice on how to avoid condensation, in particular, by not drying clothes on the radiator but by using the washer/drier provided.

(d) That the Tenant's bedroom had been cleaned in December 2015.

(e) That the Tenant had been provided with a dehumidifier and an electric panel heater.

(f) That the wall vent had been installed in 2014.

(g) That prior to the Tenant's lease commencing the property had been vacant from around January 2015.

### **Summary of the issues**

10. The issues to be determined are:-

(a) Whether the bedroom occupied by the Tenant was affected by water penetration causing mould.

(b) Whether the bedroom occupied by the Tenant was affected by dampness causing mould.

- (c) Whether the property was wind and watertight.
- (d) Whether the property was in all respects reasonably fit for human habitation.

**Findings of fact**

11. The Committee finds the following facts to be established:-

- (a) The window of the bedroom opens and closes.
- (b) The vent of the window opens and closes.
- (c) The external wall of the bedroom contains a wall vent which is clear.
- (d) Externally, the window of the bedroom is located beneath and is therefore sheltered by the external stone stair and landing leading to the first floor of the property.
- (e) The character of the property is such that that, due to its location, the window of the bedroom does not receive sunlight or, when open, any material air circulation.
- (f) The floor of the bedroom is dry.
- (g) The ceiling of the bedroom is dry.
- (h) The external wall of the bedroom is dry above the mid line thereof.
- (i) Below the mid line the external wall of the bedroom is not exposed due to the bed and the desk covering almost the entire width of the room.
- (j) The external wall of the property is marginally damp below the mid line thereof behind the bed and the desk.
- (k) The bedroom door is almost permanently closed due to the installation of a fire door.
- (l) The remaining walls of the bedroom were dry.
- (m) There was no evidence of mould.
- (n) There was no evidence of water penetration.
- (o) There was some condensation on the window.
- (p) The property was wind and watertight.
- (q) The property is reasonably fit for human habitation.

**Reasons for the decision**

12. The property is at ground level and the weather conditions were damp with light rain at the time of the inspection.

The Committee noted the small size of the bedroom and constraints on air circulation due to the furniture and furnishings substantially filling the room space. In particular the bed was situated tight against both the external wall and the adjacent internal wall. The desk was also situated tight against the external wall. Below the mid line of the external wall the Committee noted there to be no space for air to circulate.

The Committee noted the fire door to the bedroom which would be almost permanently closed.

The Committee checked that the window and the vent in the window operated correctly which they did. The window had a small amount of condensation.

The Committee noted the wall vent in the external wall which was clear.

The Committee checked for dampness using a damp meter. The ceiling, floor and internal (party) walls of the room were found to be dry. The external wall above the mid line was dry. Below the mid line the external wall behind the bed and desk was marginally damp.

There was no evidence of water penetration or mould at the time of the Committee's inspection.

Externally, the Committee noted the bedroom window to be located under a stone staircase and landing leading to the upper floor. The character of the property means that the window is therefore sheltered from all weather and even when open will give only limited air circulation. Externally there was no evidence of water penetration.

The Committee determined that the bedroom may have been damp in the past due to the property having been vacant for a substantial period prior to the Tenant's tenancy commencing but that the Tenant's occupation and the work to the window and the vent had resulted in the bedroom substantially drying out with any residual dampness now being the result of limited air circulation causing condensation. This conclusion was supported by the Tenant's evidence that the dehumidifier was being used less often and that mould was not recurring as much as previously.

#### **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.

#### **Observation of the Committee**

15. Externally, the Committee noted a gap in the stonework beneath the staircase and landing leading to the upper floor and above the Tenant's bedroom window. Whilst the Committee was satisfied that there was no water penetration presently being caused by the gap nevertheless the Committee considered that repair of the stonework would be appropriate to guard against deterioration and the possibility of water ingress in the future.

#### **Right of Appeal**

16. **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**

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.

**G Buchanan**

Signed  
Chairperson

Date: 19 April 2016

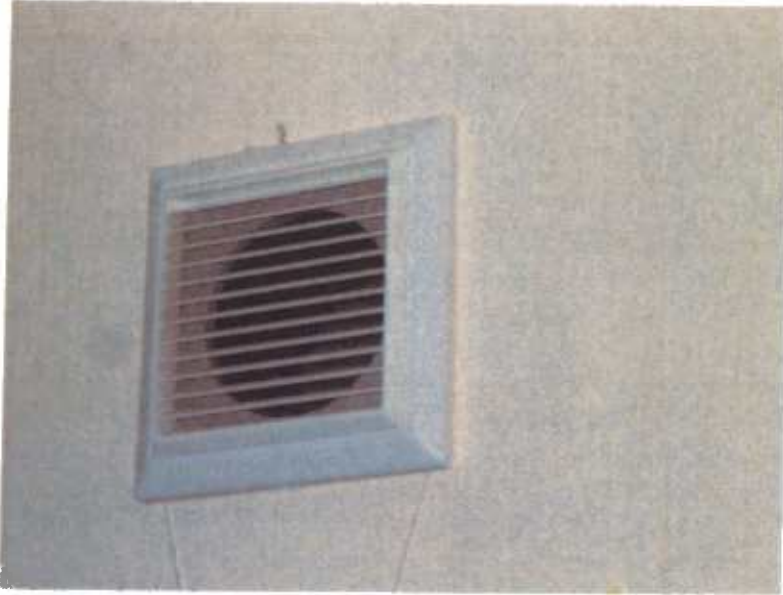
Schedule of Photographs – 18 Gladstone Place, Stirling FK8 2NN



Front Elevation



Bedroom Window Vent



Bedroom Wall Vent



Damp Meter – Bedroom Rear Wall





Bedroom Window – Below External Stair to Upper Flat



Gap in External Stonework above Window