



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

**Chamber Ref: PRHP/RP/16/0306**

**Title no/Sasines Description: Land Certificate ANG51895.**

**19C Gourdie Street, Dundee DD2 4RL ("The House")**

**The Parties:-**

**Dawn Hogarth and James Hogarth both residing at 19C Gourdie Street,  
Dundee DD2 4RL ("the Tenants")**

**Joseph Stephen McConville, Karen McConville, Sarah McConville and  
Lauren McConville, Woodville, Parkland of Murroes, Kellas, Dundee DD5  
3PB ("the Landlords")**

**Braehead Lettings Limited, Letting Agents having a place of business at  
44 Dudhope Crescent Road, Dundee DD1 5RR ("the Landlords' Agents")**

**Private Rented Housing Committee consisted of:-  
Mary-Claire Kelly, Legal Member and Chairperson  
Geraldine Wooley, Surveyor member**

**Decision**

The Committee having made such enquiries as are fit for the purposes of determining whether the Landlords have complied with the duty imposed by section 14(1)(b) of the Housing Scotland Act 2006 ("the Act") in relation to the House, and having taken account of the evidence presented at the hearing and of the written documentation attached to the application and submitted by the parties, has made the following decision:

It has determined that the Landlords have not failed to comply with the duty imposed by section 14(1)(b) of the Act.

The decision was unanimous.

## **Background**

1. On 1<sup>st</sup> December 2016 the functions of the Private Rented Housing Panel transferred to the First Tier Tribunal (Housing and Property Chamber) as part of the changes introduced by the Tribunals (Scotland) Act 2014. Guidance on any changes to the appeal provisions which apply to this case is attached to this decision.

2. By application received on 20<sup>th</sup> September 2016 (the "Application") the Tenants applied to the Private Rented Housing Panel ("PRHP") for a determination of whether the Landlords had failed to comply with the duties imposed by section 14(1)(b) of the Act.

3. The Application stated that the Tenants considered that the Landlords had failed to comply with the duty to ensure that the House meets the repairing standard and in particular that the Landlords had failed to ensure compliance with the following paragraph of section 13(1) of the Act:

*"(a) the house is wind and water tight and in all other respects reasonably fit for human habitation;"*

The Tenants specified the following breaches:-

- That the property had a leaking shower
- That the ceiling in the garage required to be repaired
- That the ceiling in the living room required to be repaired
- That the cupboards and drawers in the kitchen required to be repaired
- That the sealant behind the kitchen sink required to be replaced.

4. The Tenants submitted to the PRHP, as part of the application, copies of emails between the Tenants and the Landlords' previous Letting Agents, Pavilion Properties spanning a period from 24<sup>th</sup> November 2015 to 7<sup>th</sup> December 2015; a copy of a previous application to the PRHP which had not proceeded; photographs of the items specified in the application and email correspondence between the Tenants and the Landlords' Agents spanning the period between 21<sup>st</sup> April 2016 and 17<sup>th</sup> September 2016.

5. Notices of Referral to a Private Rented Housing Committee under section 23(1) of the Act were sent to the parties on 19<sup>th</sup> October 2016, following a decision to refer made by the Convener of the Private Rented Housing Panel on 5<sup>th</sup> October 2016.

6. By email dated 9<sup>th</sup> November 2016 the Landlords' agents provided written submissions and intimated email correspondence between the Landlord's agents and the Tenants. They also submitted invoices in respect of works carried out at the property.

## **Inspection**

7. The Committee inspected the House at 10am on Tuesday 29<sup>th</sup> November 2016. The Tenants were present at the inspection. Also present were one of the Landlords, Ms Karen McConville, and Ms Sharon Jones, a property manager employed by the Landlords' agents.

8. Photographs were taken by the Committee during the Inspection. Copies of the photographs are attached as a schedule to this Statement of Decision.

### **Hearing**

9. Following the inspection, the Committee held a hearing at 11.30 am at Caledonian House, Greenmarket, Dundee. The Tenants were present at the hearing. Ms McConville and Ms Jones were also present at the hearing. The Committee considered the written evidence submitted by the parties and heard representations from the parties. During the Hearing the Committee was assisted by the cooperative manner of the parties.

10. The Tenants advised the Committee that they had found the previous letting agents, Pavilion Properties, to be unhelpful. They had failed to carry out repairs timeously and left the tenants frustrated at the lack of progress. The Tenants advised that they were paying for the property and felt that it should be maintained to a satisfactory standard. The Tenants advised that their enjoyment of the property over a period of months had been affected due to the Landlords' failure to carry out repairs.

11. Ms McConville stated that the Landlords relied on the Letting Agents to deal with any issues arising in the property and any repairs which required to be carried out. Ms McConville advised that she had not been made aware of the problems regarding repairs by her previous agents. She expressed a willingness to address problems identified by the Tenants.

12. Ms Jones confirmed that she had instructed various repairs to be carried out including those which related to the subject matter of the application. She also expressed a willingness to deal promptly with any further concerns raised by the Tenants.

13. The Committee dealt with each of the issues specified in the application in turn:-

The ceiling in the livingroom: The Tenants confirmed that the repairs which had been carried out addressed their previous concerns and that in their view no further works were required at present.

The ceiling in the garage: The Tenants confirmed that the repairs which had been carried out addressed their previous concerns and that in their view no further repairs were required at present.

The bath panel and shower screen: The Tenants confirmed that the bath panel and shower screen had been replaced and both appeared to be satisfactory. The Tenants confirmed that as far as they could see there was no water leaking from the area. The Tenants expressed some concern that there may be mould growing behind the bath panel as they had not been able to see the area before the bath panel was fixed.

The sealant behind the kitchen sink: The Tenants confirmed that this had been replaced and was satisfactory.

The kitchen cabinets: The Tenants advised that the Landlords had fixed the cabinet under the sink by tightening the screws and adding an extra hinge. They did not have confidence that there would not be future problems with the kitchen cabinets. The Tenants advised that the kick boards frequently came loose. The Tenants advised that they had on a several occasions had to screw on loose doors. At the Inspection the cabinets and in particular the cupboard below the sink and the lower drawer had been functioning but it was observed that due to the age of the kitchen there were likely to be further repairs. Ms McConville confirmed that the kitchen had been installed at the time the property was built, approximately 10 years ago. Ms Jones confirmed that in the interval between the Inspection and the Hearing she had contacted a tradesperson who would fix the drawer in the kitchen. Both Ms McConville and Ms Jones confirmed that they would monitor the position with the kitchen and carry out any further repairs as required.

### **Summary of the Issues**

14. The issue to be determined is whether the house meets the repairing standard as laid down in Section 13 of the Act and whether the Landlord has complied with the duty imposed by Section 14(1)(b) of the Act. The focus of the Committee's investigation related to the complaints as specified in paragraph 3 above.

### **Findings in Fact**

15. The property comprises a 3-bedroomed end of terrace dwelling house of modern construction. The ground floor comprises a hallway, living room, kitchen and large cupboard. A built-in garage adjoins the ground floor. Upstairs there are 3 bedrooms, an ensuite shower room and a bathroom.

16. The Landlords and the Tenants had entered into a Tenancy agreement in respect of the House on 14<sup>th</sup> August 2015. The duration of the Tenancy Agreement was from 14<sup>th</sup> August 2015 until 31<sup>st</sup> August 2016. A further Tenancy Agreement was entered into on 1<sup>st</sup> August 2016. The duration of this lease is from 1<sup>st</sup> August 2016 until 31<sup>st</sup> July 2017. Both leases purport to be Short Assured Tenancies. The rent payable in respect of the property is £700 per calendar month.

17. The House was well presented and in a tidy condition.

18. There was no evidence of ongoing water ingress to the ceiling in the living room. The affected areas of the ceiling had been replastered and repainted.

19. Remedial works had been carried out to the ceiling in the garage. There was no evidence of ongoing water ingress to the garage ceiling. It was noted that materials used to repair the affected area were compliant in terms of fire retardation as the ceiling forms a "fire ceiling".

20. The sealant behind the kitchen sink had been replaced.

21. The bath panel and shower screen had been replaced. It was not possible to view behind the bath panel however there was no evidence of water ingress.

22. The kitchen cupboard below the sink had recently been repaired. One of the drawers in the kitchen was unstable. Both the cupboard and the drawer were functioning at the time of the inspection.

23. The shower cubicle in the ensuite shower room had been repaired and there was no evidence of water ingress.

24. There was regrettably some delay in the necessary repairs being carried out which adversely affected the Tenants' enjoyment of the property for a period of some months. The repairs had largely been carried out after the Tenants' application to the PRHP.

### **Reasons for the Decision**

25. The Committee determined the application having regard to the bundle of papers which had been available to parties prior to the Hearing, the Inspection and the oral representations of the parties at the Hearing.

26. The Committee was only able to consider the Tenants' complaints which formed part of the intimated application.

27. The Committee was satisfied that having regard to all of the available evidence there was sufficient information and material upon which to reach a fair determination of the reference.

### **Decision**

28. The Committee determined that the Landlords have not failed to comply with any of the duties imposed by Section 14(1)(b) of the Act.

### **Observations**

29. Although outwith the subject matter of the application it was observed that a manhole cover directly to the front of the House was loose and was a hazard. The issue was brought to the Landlords' attention at the Hearing and it was noted that the Landlords' Agents would take immediate steps to remedy the problem.

30. It was noted during the Inspection that the ceiling adjacent to the extractor fan in the ensuite shower room showed small patches of damp. Meter readings were within the normal range however the issue requires to be monitored.

**A landlord, tenant or third party applicant aggrieved by the decision of the committee may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

In witness whereof these presents type written on this and the preceding pages are executed by Mary-Claire Kelly, solicitor, chairperson of the committee at Edinburgh on 29<sup>th</sup> November 2016 before this witness:-

N H Ferguson

witness

M C Kelly

chairperson

name in full

57 VANDERLUG AVENUE Address

EDINBURGH

EH7 6UQ.



## PRHP Photo Report

**Property:** 19c Gourdie St Dundee DD2 4RL

**Ref no:** prhp/rp/16/0306



**1) Living room:** ceiling now repaired and redecorated



Photo 1

**2) Garage** – ceiling repaired with branded British Gypsum plasterboard to 30minute fire resistance standard.

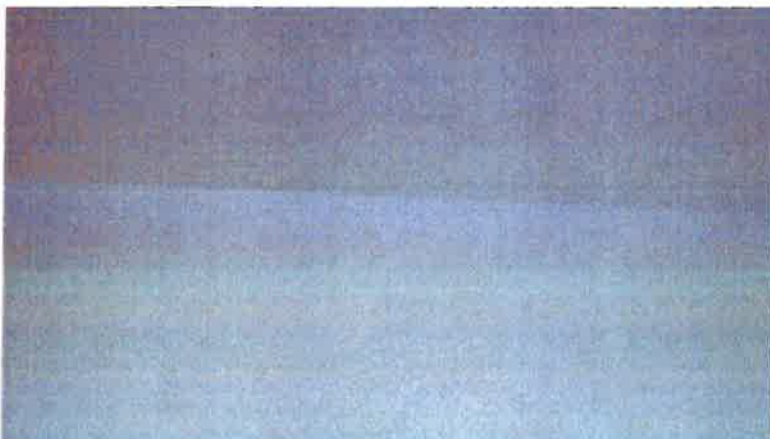


Photo 2a



Photo 2b



**3) Kitchen:** drawers and cupboard in need of attention



Photo 3a

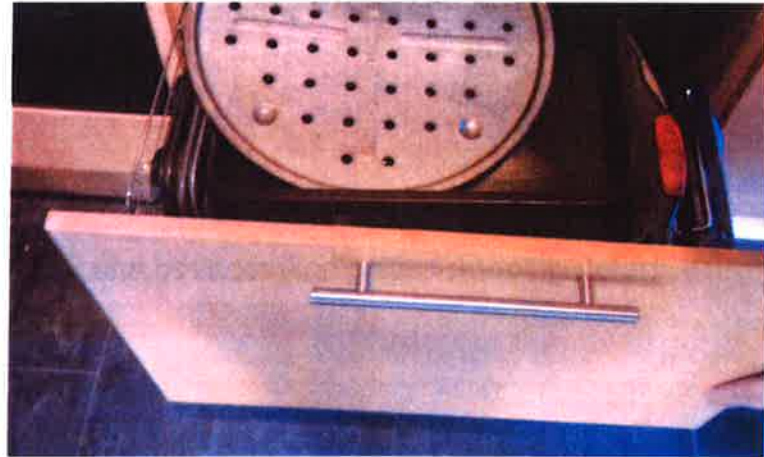
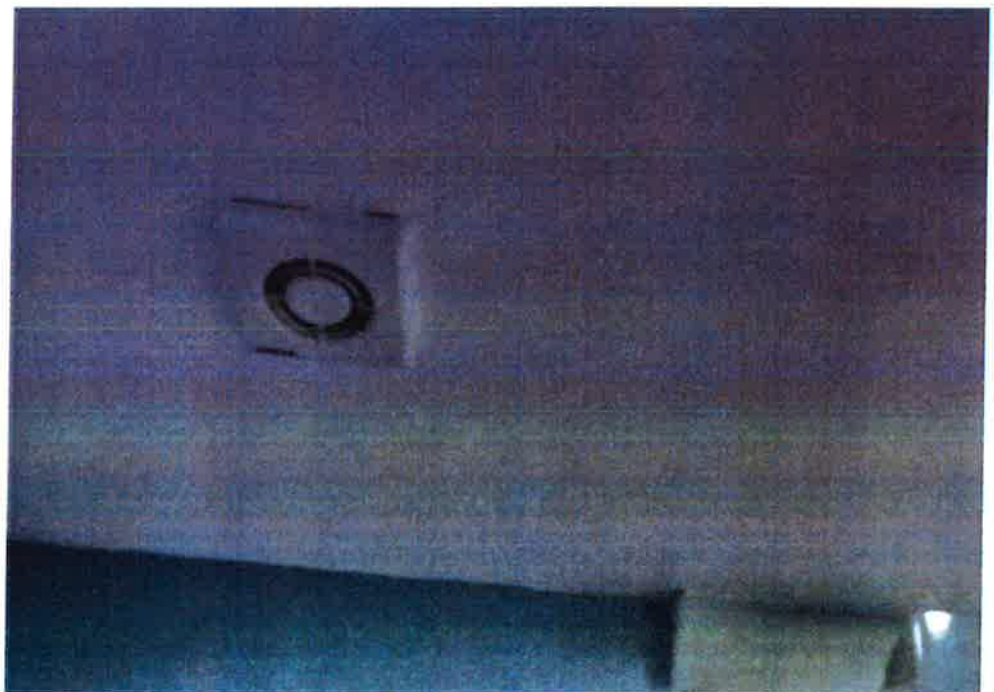


Photo 3b

**4) Bathrooms:**

4a) Ensuite bathroom:  
ceiling around extractor  
fan repaired and  
decorated, but small  
patches of damp with  
meter readings of 10-12%  
were found adjacent to the  
fan. This needs to be  
monitored





4b) Main bathroom: bath panel replaced



4c) Main bathroom: shower screen seal replaced

