



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 Flat 5 (0/2), 2 Toward, Greenock Road, Wemyss Bay, PA18 6DT being the subjects registered in the land Register of Scotland under Title Number REN120160. ('the Property')

The Parties:-

Mr and Mrs James Walker residing at 0/2, 2 Toward, Greenock Road, Wemyss bay, PA18 6DT ('The Tenant')

Chesnutt Skeoch Limited, 11/13 Woodside Terrace lane, Glasgow, G3 7YW ('The Landlords')

Decision

The Committee, having made such enquiries as it saw 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 Property, determined that the Landlords have complied with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 30th January 2013 the Tenants applied to the Private Rented Housing Panel for a determination of whether the Landlords have failed to comply with the duties imposed by Section 14 (1)(b) of the Act.
2. The application by Mr Walker, one of the Tenants, stated that he considered that the Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. He advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation and that 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.

In particular the application stated that:-

1. The Landlords have failed to carry out work to rectify problems requested by the Department of the Environment of Greenock Council.
 2. The supply of space heating and heating water is not in a reasonable state of repair. We have never been given a gas safety certificate.
 3. The wall around the boiler flue has not been filled properly which is causing fumes to be blown back into the flat.
3. 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.
 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 Landlords and the Tenant, dated 11th February 2013.

5. The Committee attended at the Property on 27th March 2013. The Tenants were present. As a preliminary matter the Committee advised the Tenants that their complaint of noise emanating from the flat above was not a matter that the Committee could deal with as it was not within the remit of the repairing standard.

The Committee inspected the other alleged defects and found as follows:-

- 5.1 The supply of space heating and heating water is not in a reasonable state of repair. We have never been given a gas safety certificate.

The Tenants acknowledged that they had been provided with a copy of the most recent gas safety certificate dated 19th February 2013. They advised the Committee that the central heating system was in proper working order and their complaint was that they had not been provided with a gas safety certificate earlier in the tenancy but they accepted that a valid certificate had now been provided.

- 5.2 The wall around the boiler flue has not been filled properly which is causing fumes to be blown back into the flat.

The Tenants advised that the space between the boiler flue and the wall had been filled a couple of weeks ago and they advised the Committee that they had no further complaints about it.

6. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Branchton Community Resource and Family Centre, Branchton, Greenock.

The Tenants did not attend the hearing. Alice Turnbull and Ken Johnstone, representing the Landlords attended the hearing.

As a preliminary matter the Committee explained that the Tenants' complaint of noise emanating from the flat above was not a matter that the Committee could deal with as it was not within the remit of the repairing standard.

In relation to the other two matters the Committee explained that the Tenants had confirmed at the inspection that these matters had been satisfactorily attended to and the Committee were satisfied that they complied with the repairing standard. The Landlords representatives had no further comments to make.

Decision

7. The Committee accordingly determined that the Property was wind and watertight and in all other respects reasonably fit for human habitation and that 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 proper working order supply of space heating and heating water is not in a reasonable state of repair. Consequently the Landlords had complied with the duties imposed by Sections 13 (1)(a), 13(1)(c) and 14 of the Act, as stated.

8. The decision of the Committee was unanimous.

Right of Appeal

9. 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

10. 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.

J Taylor

Signed Date 4th April 2013
Chairperson