



**PRIVATE RENTED HOUSING COMMITTEE  
STATEMENT OF DECISION UNDER SECTION 24(1) OF THE HOUSING  
(SCOTLAND) ACT 2006**

**prhp Ref: prhp/G84/98/11**

**PROPERTY:**

**32 Ardencapel Quadrant, Helensburgh, G84 8DR**

**INSPECTION & HEARING**

**24 October 2011**

### **The Parties:-**

**Ms Louise McCavera, 32 Ardencaple Quadrant, Helensburgh, G84 8DR (hereinafter referred to as "the Tenant")**

**Ms Veronique Bonnelame, formerly of Flat 2/2, 61 High Street, Paisley and now care of P.O. Box 834 Victoria, Seychelles (hereinafter referred to as "the Landlord")**

### **Decision**

**The Committee, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14(1) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act") in relation to the property, and taking account of the evidence presented by the Landlord and the Tenant, determined that the Landlord has not failed to comply with that duty.**

### **Background**

1. By application dated 9 May 2011 the Tenant, through her agent, Mark Sweeney, applied to the Private Rented Housing Panel (PRHP) for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the Act").
2. The application stated that the Tenant considered that the Landlord had failed to comply with her duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
  - (a) the house is wind and watertight and in all other respects reasonably fit for human habitation.
  - (b) any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
3. The application was accompanied by:
  - a) Copy lease between the parties dated 18 October 2006
  - b) Copy letter from Landlord to Tenant dated 14 August 2009.
  - c) Copy letters and emails from Mark Sweeney 16 February, 11 and 14 March 2011.
  - d) Copy Periodic Inspection Report dated 16 October 2006
  - e) Copy Fire Detection and Fire Alarm Installation Certificate dated 16 October 2006.
4. PRHP served Notices of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant intimating the decision of the President to refer the application under Section 22(1) of

the Act to a Private Rented Housing Committee (hereinafter referred to as "the Committee").

The Committee comprised the following members:

Mr. David M Preston, Legal Member  
Mr. Kingsley Bruce, Surveyor Member  
Mr. Chris Harvey, Housing Member

5. Following service of the Notice of Referral, written representations were received from the Landlord along with copy emails between her and Mark Sweeney of various dates.
6. The Committee inspected the Property on the morning of 24 October 2011. The Tenant was present and the Landlord was neither present nor represented. The Committee, throughout its deliberations drew no inference from the absence of the Landlord.
7. Following the inspection of the Property the Committee held a hearing at Victoria Halls, Sinclair Street, Helensburgh which was attended by neither the Tenant, nor the Landlord.
8. The application by the Tenant specified:
  - a) Severe dampness in the bathroom – needs extractor fan
  - b) Cooker urgently (needs) fixed
  - c) Front door - lock broken – key stuck in lock
  - d) Panes of glass on front door need fixed
  - e) Plumbing under kitchen sink
  - f) Windows need attended to, to prevent wind coming in through windows
  - g) House needs ventilation
9. The written representations from the Landlord advised in relation to the issues:
  - a) Extractor fan has been installed in the bathroom
  - b) A new cooker had been supplied
  - c) Lock has been replaced
  - d) Pane of glass has been replaced
  - e) Plumbing under kitchen sink has been fixed
  - f) Windows are of wooden frame and have been notified by contractor that there is no need to replace them. However, silicon has been used to seal parts of the frames that can benefit from it.
  - g) The building is of cement block construction and benefits from cavity wall insulation which meets the minimum legal requirement. Additionally the flat was insulated in September 2009(sic). Cavity Insulation Guarantee Agency certificate was attached.

The CIGA Certificate indicated that the insulation had been installed on 28 September 2006.

In addition the Landlord made a number of observations and raised issues in respect of which PRHP has no power to intervene or make any determination.

### **Summary of issues**

10. The issue to be determined was whether the property meets the Repairing Standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duty imposed by Section 14(1).

### **Findings in Fact**

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

- a) On 18 October 2006, the Tenant entered into a Short Assured Tenancy with the Landlord for the rent of the property. The provisions in Chapter 4 of the Act apply.

- b) The property is a ground floor flat in a block of four.

12. With regard to the points raised in the application the inspection revealed:-

- a) A new extractor fan had been installed in the bathroom. The tenant accepted this and confirmed that it was in working order. The Committee considered that there was no evidence of dampness but that the issue had been one of condensation which had been addressed so far as reasonably practicable by the landlord. Accordingly the Committee determined that this issue had been resolved.

- b) A new cooker was in place, although the Tenant reported that work was required to increase the height of the cooker to be level with adjacent work surfaces. Accordingly the Committee determined that this issue had been resolved and that the further work required would not cause the property to fail to meet the Repairing Standard.

- c) The front door lock had been fixed. Accordingly the Committee determined that this issue had been resolved.

- d) The broken panes of glass in the front door had been replaced, although it was noted that one pane remained cracked which was reported as having occurred at the time of it being fitted. Accordingly the Committee determined that this issue had been resolved. The damage to one pane would not cause the property to fail to meet the Repairing Standard.

- e) The Committee did not detect any leak in the plumbing under the kitchen sink which would cause the property to fail to meet the Repairing Standard.

- f) The Committee did not detect any significant issue with the windows. It noted that they are broadly adequate, although in need of attention in some respects, for example there is evidence of rot in one sill. It was noted that sealant had been applied to the frames and the Committee did not detect any significant draughts from single glazed windows.
- g) The property had been insulated prior to the commencement of the tenancy.
- h) In addition to the issues raised in the application the Committee noted that a hard-wired smoke detector had been fitted in the hallway, but it was not in situ at the inspection. The Tenant advised that she had removed it the previous evening as it appeared to be faulty and would replace it.

#### **Reasons for the decision**

- 13. The Committee was satisfied that the Tenant's concerns had been intimated to the Landlord and had been detailed in the application to PRHP which had been copied to the Landlord per her agents.
- 14. The evidence from the inspection of the property left the Committee in no doubt that the property met the repairing standard as defined in s13(1) of the Act.
- 15. the Committee accepted the evidence of the CIGA Certificate that insulation had been installed before the commencement of the lease.

#### **Decision**

- 16. The Committee accordingly determined that the Landlord had not failed to comply with the duty imposed by Section 14(1) of the Act.
- 17. Accordingly the Committee will not make a Repairing Standard Enforcement Order.
- 18. The decision of the Committee was unanimous.

#### **Right of Appeal**

**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**

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 **D Preston**  
Chairperson

Date... 28/10/11