



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

Ref prhp/rp/15/0295

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 by Argyle and Bute Citizens Advice Bureau, 65-67 West Princes Street, Helensburgh on behalf of Peter Murray residing at Flat 1 /2, 38 James Street, Helensburgh, G84 8UH ("the Tenant") against The John Dobbie Trust ("the Landlords") per their Agents, Ms. Sharon Halliday, Letting and Property Manager, 5 McEwan Walk, Alexandria, G83 OUT

Re: Flat 1/2, 38 James Street, Helensburgh, G84 8UH ("the Property")

Committee Members

Karen Moore (Chairperson)

Alex Carmichael (Surveyor Member)

Decision

In respect of Section 13 (1) (d) of the Act, the Committee found that at the date of the Hearing the Landlords had not failed to comply with the duty imposed on it by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (a), 13 (1) (b), 13 (1) (c) and 13 (1) (d) of the Act.

Background

By application dated 10 April 2015 ("the Application"), Argyle and Bute Citizens Advice Bureau on behalf of the Tenant applied to the Private Rented Housing Panel for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (a), 13 (1) (b), 13 (1) (c) and 13 (1) (d) of the Act.

The president of the Private Rented Housing Panel, having considered the application, intimated to the parties by Notice of Referral dated 21 May 2015, a decision under Section 23 (1) of the Act to refer the Application to a Private Rented Housing Committee, and, in terms of Schedule 2, Paragraph

1 of the Act fixed an Inspection and Hearing for 31 July 2015 at 10.00 a.m. and 11.30 a.m., respectively.

Written Representations

By letter dated 29 December 2015, the Landlords lodged the following items with the Committee:-

- a) Summary Statement outlining actions taken by the Landlords to address the Tenant's complaints;
- b) Detailed Statement providing specific details of the actions taken by the Landlords to address the Tenant's complaints and
- c) Copies of receipted invoices for works carried out at the Property.

The Landlords' written representations were copied to the Tenant.

Inspection and Hearing

An Inspection took place on 4 February 2016 at 10.00 a.m. at the Property. The Tenant, the Tenant's companion, Ms. Karen Carmichael, the Landlords' agent, Ms Sharon Halliday and Mr. Adrian Flatman and Mrs. Doreen Flatman, trustees of the Landlords were all present at the Inspection.

The Committee inspected the Property and the items of which the Tenant complained specifically in the Application, namely:

1. Leaking bathroom tap;
2. Central heating system;
3. Dampness through kitchen wall;
4. Extractor fan allows ingress of rainwater;
5. External wall dampness and
6. Inoperative oven.

The committee advised the Tenant that the ceiling in the downstairs property was outwith their remit and jurisdiction.

The Committee took digital photos of the Property which form the Schedule annexed.

Following the Inspection, a Hearing was held at the Victoria Halls, on 4 February 2016 at 11.30 a.m. The Tenant, the Tenant's companion, Ms Karen Carmichael, the Landlords' agent, Ms Sharon Halliday and Mr. Adrian Flatman and Mrs. Doreen Flatman, trustees of the Landlords were all present.

At the Hearing, the Parties, being both the Tenant and the Landlord, agreed that the works complained of in the Application had been completed by the Landlords, either by repair or by replacement.

The Tenant raised an issue in respect of a letter he had received from the Landlords' Agent in response to an enquiry by him regarding his liability for damages at the termination of the tenancy. Although outwith the scope of the Committee's jurisdiction and the matters raised in the Application, the Landlords' Agent and the Landlords confirmed and clarified that the Tenant's liability would be restricted to damages directly attributed to his tenancy and not to damage caused

prior to that and they pointed out that prior damage was reflected in the Inventory annexed to the tenancy agreement.

Summary of the Issues

The issues to be determined by the Committee are whether or not the Property meets the Repairing Standard in respect of Sections 13 (1) (a), 13 (1) (b), 13 (1) (c) and 13 (1) (d) of the Act at the date of the Inspection and Hearing.

Findings of Fact

The John Dobbie Trust is the owner of the Property and Peter Murray is the tenant of the Property in terms of a tenancy agreement between the parties dated 18 April 2014.

The Property comprises a two apartment flat situated on the first floor rightmost of a four storey end terrace tenement property which we originally estimate to be in the region of 100 years old or thereby. The original front portion of the property is of traditional construction with stone outer walling to the façade with render to gable and rear elevation. The floors throughout are timber boarded on suspended joists. The timber pitched roof is finished with tiles. Mains supplies of gas, water and electricity are supplied to the subjects and drainage is assumed to be to the public sewer. The property has a gas fired central heating system. The property also benefits from double glazed windows throughout.

From the Inspection, the Committee found the following:

1. Leaking bathroom tap was in working order – see photo 01 of the Schedule;
2. Central heating system was in working order – see photo 02 of the Schedule;
3. Dampness through kitchen wall appeared to have been repaired and no dampness was evident – see photo 03 of the Schedule;
4. Extractor fan had been replaced – see photo 04 of the Schedule;
5. External wall dampness appeared to have been repaired and no dampness was evident and
6. Inoperative oven had been replaced – see photo 05 of the Schedule.

From the Tenant's statements to them at the Inspection, the Committee found that the Tenant accepted that all of the matters complained of had been remedied.

Decision of the Committee

The Committee's decision was based on the Application with supporting documents, the Landlords' written representations, the Inspection and on the statements made to the Committee by the Parties at the Hearing.

The Committee found that, at the date of the Hearing, the Landlords had not failed to comply with the duty imposed on it by Section 14 (1) (b) of the Housing (Scotland) Act 2006 and that the Property

meets the Repairing Standard in respect of Sections 13 (1) (a), 13 (1) (b), 13 (1) (c) and 13 (1) (d) of the Act.

The decision is 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.

Where such an appeal is made, the effect of the decision and of any repairing standards enforcement 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 any repairing standards enforcement order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

K Moore

Karen Moore, Chairperson

Date 12 February 2016

12 Feb 2016 This is the schedule referred to in the foregoing decision in respect of 1/2, 38, James St, Helensburgh dated 9 Jan 2016.

Photograph Schedule - 1

K Moore



Front elevation



Photo 01



Photo 02



Photo 03



Photo 04



Photo 05