



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 : Property 3/2, 52, Union Street, Greenock ('the Property')

The Parties:-

Joel Richards esq ('the Tenant')

Shane O'Neill esq ('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 Property 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 27th November 2009 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 he considered that the Landlord had failed to comply with the duty on him to ensure that the house meets the repairing standard. In particular he advised that the Landlord had failed:-
 - a. To have the smell of gas removed from around the gas meter in the porch area.
 - b. To repair the defective smoke alarms.
 - c. To repair the defective plumbing under the kitchen sink.
 - d. To repair the defective plumbing in the bathroom which was causing the bath water to drain into the shower as it empties.
 - e. To repair the poor supply of hot water to the bathroom.
 - f. To repair the dampness in the cupboard in the front sitting room.
3. The President of the Private Rented Housing Panel after considering the application determined 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 Landlord sent an email to the Committee dated 9th February 2010 advising inter alia that the Tenant had moved out of the Property.

6. The Private Rented Housing Committee inspected the Property on the morning of 1st July 2010. A hearing was scheduled to take place at the Tontine Hotel following the inspection but neither the Tenant nor the landlord attended.

Summary of the issues

7. The issues to be determined are whether the defects claimed by the Tenant were present at the time of the inspection resulting in the Landlord failing to meet the Repairing Standard. The defects claimed are:-
 - a. The Property is not wind and water tight and in all other respects reasonably fit for human habitation as there is dampness in the cupboard in the front sitting room.
 - b. 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 as there is defective plumbing under the kitchen sink; there is defective plumbing in the bathroom which was causing the bath water to drain into the shower as it empties; the supply of hot water to the bathroom is poor and there is a smell of gas around the gas meter in the porch area.
 - c. The Property does not have a satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire as the smoke alarms in the Property are defective

Findings of fact and reasons for the decision.

8. The Committee inspected the defects claimed and found:-
 - a. There was evidence of historic dampness in the cupboard in the front sitting room but the wall in the cupboard was dry at the time of the inspection.
 - b. The waste pipe under the kitchen sink was in a reasonable state of repair and proper working order.
 - c. The bath water drained from the bath and the bath waste pipe was in a reasonable state of repair and proper working order.
 - d. There was hot water available at the sink and bath in the bathroom and the installations for the supply of hot water in the bathroom are in a reasonable state of repair and proper working order..
 - e. There was no smell of gas around the gas meter in the porch area, which appeared to be in a reasonable state of repair and proper working order.
 - f. The battery operated smoke alarms in the Property were working.

Decision

9. The Committee accordingly determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
10. The decision of the Committee was unanimous.

Right of Appeal

- 11. 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

12. 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
Chairperson

Date: 7th July 2010