

Determination by the Private Rented Housing Committee

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

prhp Ref: DD5/121/09

**Re: Property at 5a Castle Terrace, Broughty Ferry, Dundee DD5 2EG
("the Property")**

Sasine Description: That lower flatted dwellinghouse known as and forming number Five a Castle Terrace, Broughty Ferry, Dundee in the County of Angus being the subjects more particularly described in the Disposition by the Trustees of David Scott Cowans to Eric William Merry and James Iain Merry as Trustees for their Firm of M & N Investments dated Twenty-seventh May and recorded in the General Register of Sasines for the County of Angus on the Twenty-ninth of September both months in the year Nineteen Hundred and Eighty-two.

The Parties:-

Carolann Curran, 5a Castle Terrace, Broughty Ferry ("the Tenant")

Eric and James Merry as Trustees of their Firm M & N Investments per Shield & Kyd, 5 Bank Street, Dundee ("the Landlords")

Decision

The Committee having made such enquiries as it sees fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14(1)(b) in relation to the property concerned, and taking account of the written and oral evidence of both the Landlords and the Tenant at the inspection determines that the Landlords have not failed to comply with the duty imposed by Section 14(1)(b) of the Act.

Background

- 1. By application dated 21st January 2010 the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlords had failed to comply with the duties imposed on them by Section 14(1)(b) of the Act.**

2. By application the Tenant stated the Landlords had failed to comply with their duty to ensure the house meets the repairing standard and in particular the Tenant complains of the following outstanding repairs:-

(a) the living room window leaks

(b) the extractor fan in the kitchen is inoperative

In short the Tenant claimed the Landlords had failed to comply with the repairing standard in particular citing breaches of Section 13(1)(b) and (d).

3. The Private Rented Housing Committee served Notice of Referral dated the 8th February 2010.

4. The Private Rented Housing Committee inspected the property on the morning of the 30th of April 2010.

5. During the inspection of the property the Committee heard oral representations from both the Tenant and the Landlords.

6. The Committee was guided throughout the inspection by its professional Surveyor Member.

7. Although a Hearing had been scheduled to take place after the inspection, during the course of the inspection the Tenant conceded the outstanding repairs as detailed above had been carried out by the Landlords. Accordingly no Hearing took place.

Findings of Fact and Reason

8. The Committee find the following facts to be established:-

(a) the extractor fan in the kitchen was seen to be operating properly

(b) the leak at the living room window has been repaired by a reputable tradesman and has not leaked since it was repaired in February. The tradesman who undertook the repair directed a hose at the window for a two hour period after the repair and no leak was detected. Having made a visual inspection of the window the Committee is satisfied the window is in a reasonable state of repair

Decision

9. The Committee accordingly determine that the Landlords have complied with the duty imposed by Section 14(1)(b) of the Act and that it is not necessary to make a Repairing Standard Enforcement Order.
10. The decision of the Committee is unanimous.

Right of Appeal

14. **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

15. 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.

A McCamley

Signed

Chairperson



Date

4/5/2010