



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

prhp Ref: PRHP/RP/14/0183

Re : Property at Flat 23, Trinity House, Trinity Quay, Aberdeen AB11 5AA ("the Property")

The Parties:-

Mr Christian Uzah, residing at Flat 23, Trinity House, Trinity Quay, Aberdeen AB11 5AA ("the Tenant")

Adeyinka Adetokunbo Majekodunmi, residing at 15A Balgownie Road, Bridge of Don, Aberdeen ("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 house concerned, and taking account of the evidence obtained during the inspection, 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 1 August 2014 the Tenants 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 Tenants stated that the Tenants considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation
3. By letter dated 9 April 2014 the President of the Private Rented Housing Panel intimated a decision 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 Tenants.
5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than his original application. The Landlord made no written representations to the Committee.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member, Mr A Anderson, Surveyor Member and Mrs L Robertson, Housing Member). The Tenant was present during the inspection. The Landlord was neither present nor represented.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Credo Centre, John Street, Aberdeen. Neither party was present nor represented.
8. The Committee noted from the Tenant's application there had been water penetration into the flat. This ingress had occurred in both the kitchen and the main bedroom.
9. The Landlord put forward no material submissions for the Committee to consider.

Summary of the issues

10. The issue to be determined was whether the property was properly wind and water tight and reasonably fit for human habitation.

Findings of fact

11. The Committee found the following facts to be established:-
 - The property was properly wind and water tight and capable of human habitation.

Reasons for the decision

12. The Property comprises a third floor flat within a four storey and attic building, originally built as a warehouse upwards of one hundred years ago, having been converted to commercial and residential use around 20 years ago.

The Committee based its decision primarily on the evidence obtained during the course of the inspection. The Tenant highlighted during the course of the inspection an area in the main bedroom where water penetration had occurred. The Committee noted that the Tenant had suffered some issues with water penetration since taking occupancy of the flat in 2012. The Tenant showed the Committee a video he had on his mobile phone of water coming into the flat via the ceiling. However, on questioning the Tenant at the inspection, the Tenant indicated that he was aware that the Landlord had subsequently carried out some works, albeit these may have been of a temporary nature to the roof. The Tenant advised that there had been no water ingress to the Property since around August 2014, a period of around ten months prior to the inspection date. The Tenant also highlighted an area around the extractor fan in the kitchen where water penetration had occurred. Again, however, it was many months since this had occurred.

The Committee inspected both areas with a damp meter and found the two areas to be dry and properly redecorated.

The Committee considered matters. Given that there had, inevitably, been various periods of heavy rainfall over the last ten months, it appeared to the Committee that whatever works the Landlord had carried out had been successful. Whether the works were a relatively short term measure or as part of a long term programme of repairs was, to the Committee's mind, irrelevant. A significant period of time had passed without any issues arising and therefore it was apparent that the Property was properly wind and water tight. Accordingly the Committee was satisfied that, in this regard, the Property met the repairing standard. The Committee did note that the Property only had installed in it two battery powered smoke alarms. This was inadequate and did not meet the repairing standard. However this issue had not been complained of by the Tenant and so the Committee would not make an order in respect of this. Nonetheless the Committee would expect the Landlord to install a proper hardwired smoke detection/heat detection system in the Property in line with current requirements.

Decision

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

Right of Appeal

- 15. **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

- 16. 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 .. **E Miller**
Chairperson

..... Date..... 12/6/15