



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

Ref: PRHP/RP/14/0197

Re the semi-detached dwellinghouse situated at 14 Dunlop Street, Greenock, PA16 9BG, being the subjects registered in the Land Register of Scotland under Title Number REN94459 ("the Property")

The Parties:-

Miss Emma Scott, residing formerly at 14 Dunlop Street, Greenock, PA16 9BG ("the Tenant")

And

Mrs Elizabeth Ann Mitchell residing at 104 Forsyth Street, Greenock PA16 8RE, ("the Landlord")

**Decision**

The Private Rented Housing Committee (the Committee"), having made such enquiries as it saw fit for the purpose of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property concerned, and, taking account of the evidence submitted by both the Landlord and the Tenant, and taking account of the evidence given to the Committee at the hearing, determined that the Landlord has not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

**The Committee consisted of**

Mr Andrew Cowan – Chairperson;

Ms Carol Jones – Surveyor Member; and

Mr Jim Riach – Housing Member.

## Background

1. By application dated 1 August 2014, the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Act.
2. In her application, the Tenant stated that she considered that the Landlord had failed to comply with her duty to ensure that the house met the repairing standard and the Tenant brought forward the following alleged breaches:-
  - (a) the shower unit in the bathroom was not fitted properly and accordingly water leaked through the wall into the adjoining living room and the kitchen causing dampness on these adjoining walls;
  - (b) there was penetrating dampness in the main bedroom and the living room within the property;
  - (c) the toilet within the bathroom is not secured properly to the wall and floor;
  - (d) the on/off power supply switch for the cooker, is not properly isolated and accordingly it is not in a safe condition;
  - (e) the bath is rusty;
  - (f) there are no mains operated smoke alarms within the property; and
  - (g) the water heater within the property could not be found, and could not be turned on and/or off.
3. By a letter dated 22 September 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 for determination of the application.
4. Following the service of the notice of referral dated 22 September 2014, the Landlord intimated that they intended to carry out certain works to the property. At that time the Tenant, through her solicitor, confirmed that she was prepared to allow the Landlord to carry out such remedial works.

5. On 1 December 2014, the solicitor acting for the Tenant advised the Private Rented Housing Committee that the Tenant had vacated the property.
6. On 24 April 2015, the Private Rented Housing Panel issued a Minute of Continuation, being a decision under Schedule 2 Paragraph 7(3) of the Act. The Minute of Continuation issued by the Private Rented Housing Panel confirmed that, having received confirmation from the Tenant's agent that the tenancy of the house had been terminated, and that the Tenant has vacated the house, the Tenant is to be treated as having withdrawn the application under Section 22(1) of the Act. The Minute of Continuation further confirmed that as the application made by the Tenant alleged repairs required to be carried out to the house which, (if substantiated) are likely to raise potential health and safety issues for occupants, and issues as to whether the property is wind and water tight, and whether it is fit for human habitation, the Committee considered that the application should be determined. Accordingly, the Committee decided to proceed with the application.
7. The Committee inspected the property on the morning of 15 June 2015. The Landlord was represented at the inspection by her husband, Mr George Mitchell. The Tenant was not present nor represented at the inspection.
8. Following the inspection of the property, the Committee held a hearing at the Inverkip Hotel, Inverkip. At that hearing, the Landlord was represented by her husband, Mr George Mitchell. The Tenant did not attend nor was she represented at that hearing.

#### **The Inspection**

9. At the inspection of the property, the Committee noted that, following the Tenant's departure from the property, some works had been carried out by the Landlord to the property. The Committee understood from the Landlord that it has been recently agreed that the property will be sold. The prospective purchaser of the property has already started substantial renovation works to the property. The kitchen within the property has been removed, electrical works are being upgraded, and a number of the walls of the property are in the process of being re-plastered.
10. The Committee further noted that, prior to these substantial renovation works being carried out to the property, the Landlord had already carried out further works to the property. The Landlord has installed a new bathroom suite and shower within the property. The Landlord has installed mains wired smoke detectors within the property. Electrical works had been carried out to the property and a new electrical consumer unit had been installed. The Landlord and the

neighbouring proprietor of this semi-detached property had instructed certain works to be carried out to maintain the roof at the property.

### **The Hearing**

11. At the hearing, the Committee heard further evidence from the Landlord's representative, her husband, Mr George Mitchell. Mr Mitchell again emphasised that certain works had been carried out over the last few months. The works which had been carried out included electrical work to include the installation of a modern consumer unit/fuse box, isolation of water heater switch and installation of hardwire smoke alarms. A new bathroom suite and a shower unit has also been installed. Over more recent weeks, the prospective purchaser of the property had re-plastered many of the walls within the property. A new gas boiler had been installed within the property. Works were on-going within the property. Further and, in addition, the Committee noted that the Landlord had now exhibited an Electrical Installation Condition Report dated 1 December 2014. That Electrical Installation Condition Report concluded that the general condition of the installations (in terms of the electrical safety) within the property were in a reasonable condition for the age of the installations and that the overall assessment of the electrical installations in terms of suitability for their continued use was considered to be satisfactory. The Committee noted that the report specifically stated that the shower was disconnected at the time of the report as was the water heater. The Committee further noted that since that time, the water heater had been removed from the property, as a new gas boiler had been installed, and the shower would be reconnected in due course when all further works which were currently being carried out the property are completed.
12. Taking account of all the evidence available and, taking account of their own observations at the time of the inspection, the Committee considered each of the respective complaints made by the Tenant in her application.
13. The Committee noted that since the date of the application, the Landlord had installed a new bathroom suite and shower unit within the property. The Committee were satisfied that there is no evidence of any continuing leaks through the wall into adjoining rooms from the shower unit, nor was there any evidence of continuing dampness on those adjoining walls. The walls had recently been re-plastered. In this respect, therefore, the Committee were satisfied that there is no current failure of the repairing standard.
14. The Committee noted that there was evidence of some historic dampness staining within the main bedroom of the property. The Committee further noted that works had recently been carried out to maintain the roof of the property and there was no evidence of continuing water

ingress or dampness to the main bedroom or the living room within the property. In the circumstances, the Committee were satisfied there was no current failure of the repairing standard in relation to this matter.

15. A new toilet had been installed in the property since the date of the Tenant's application. The toilet was properly secured and the Committee were satisfied that there is no current failure of the repairing standard in connection with the toilet.
16. Since the date of the Tenant's application, the kitchen has been gutted. The cooker has been removed. The Landlord confirmed that it was the intention, that the new kitchen to be installed in the property would have appropriate electrics installed for a cooker including an isolated power switch for the cooker. Given that there was no cooker within the property at the time of the inspection, the Committee were satisfied that there was no current failure of the repairing standard in relation to this matter.
17. A new bathroom suite had been installed within the property and accordingly, the Committee were satisfied that the bath installed within the property meets the current repairing standard.
18. The Landlord has installed mains operated smoke alarms within the property. The Committee were satisfied that there is no current failure of the repairing standard in this respect.
19. The Landlord has removed the former water heater from the property and a new gas boiler has been installed in the property. The Committee were satisfied that there is no current failure of the repairing standard in connection with this matter.

#### **Findings in fact**

20. Having considered all the evidence the Committee found that, as at the date of the inspection of the property, there was no evidence of continuing disrepair as outlined by the Tenant in her application. The Committee were satisfied, as at the date of the inspection, that the property met the repairing standard in relation to the matters raised by the Tenant in her application. In the circumstances, the Committee determined to dismiss the application.
21. The decision of the Committee was unanimous.

#### **Right of Appeal**

22. 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**

23. 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.

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**A. Cowan**

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..... Date 19 June 2015

**L. McManus**

.....Witness

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA