

Private Rented Housing Committee

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

Re: 100C Mid Street, Bathgate, West Lothian EH48 1QF (“the Property”)

Title Number: WLN45076

The Parties:-

**DAVID SINNET, formerly residing at 100C Mid Street, Bathgate, West Lothian
EH48 1QF (“the Tenant”)**

**EDWARD PETRIE, residing at 31 Ballenerieff, Balmuir Road, Bathgate, West
Lothian EH48 4LL (“the Landlord”)**

Committee members:-

**Richard Mill (Chairman), Richard Burnett (Surveyor Member) and Douglas
McIntyre (Housing Member)**

Decision

The committee, having made enquiries for the purposes 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, determined that the Landlord has not failed to comply with the duty imposed by Section 14(1)(b) of the Act in respect that the Property does meet the Repairing Standard.

Background

1. By application dated 6 August 2014, and received on 15 September 2014, 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 Act in respect of the Property.

2. In the application the Tenant stated that the Landlord had failed to comply with the duty to ensure that the house meets the Repairing Standard in a number of respects. The relevant aspects of the Repairing Standard put at issue are those contained within Sections 13(1)(a), (b), (d) and (e) which are in the following terms:-
 - whether the house is wind and watertight and in all other respects reasonably fit for human habitation.
 - whether the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.
 - whether any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
 - whether any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
3. Following the Tenant lodging the application he received a Notice of the Landlord's requirement to seek possession of the property and terminate the Short Assured Tenancy in place. It was established that the tenancy remained in place as at the date of receipt of the application.
4. On 11 December 2014, following the lawful termination of the tenancy, a Minute of Continuation was issued given the prima facie concerns raised within the Application. This was intimated to the Landlord by way of letter dated 19 December 2014.
5. Notices of Referral were issued to parties on 11 February 2015.

Inspection

6. The committee inspected the Property on 5 March 2015 at 10.00 am. The Landlord was present, who directed the committee members around the property.

Hearing

7. Following the inspection of the Property the committee convened a Hearing at Howden Park Centre, Howden, Livingston later the same morning on 5 March 2015. The Landlord appeared personally.

Summary of the issues

- 8.1 The issues to be determined by the committee are whether or not the Property meets the Repairing Standard to the extent put at issue within the application, as at the date of the Hearing.

- 8.2. One issue only was identified from the committee's inspection. The issue related to the condition of the internal glass door at the top of the stairs entering the rest of the accommodation within the property. The Landlord accepted that it was defective and not safe and undertook to remove same within 21 days. On the grounds of expedition and proportionality a Direction was issued reflecting the Landlord's undertaking in respect of the door and to provide photographic evidence of same within 21 days. Subject to such photographic evidence being provided the committee confirmed that no Repairing Standard Enforcement Order would be made.

Findings in Fact

9. The committee makes the following findings in fact:
- 9.1 The title to the subjects known as 100C Mid Street, Bathgate, West Lothian EH48 1QF is held by the Landlord. Their interest is registered in the Land Register of Scotland under title number WLN45076 on 17 October 2011.
- 9.2 The Property which is the subject of this application is one of eight flats situated at 100 Mid Street, Bathgate, West Lothian EH48 1QF.
- 9.3 The Property is a first floor flat. It comprises a living room, kitchen, bathroom and one bedroom.
- 9.4 The Tenant entered into a Short Assured Tenancy with the Landlord in respect of the property on 17 October 2011.
- 9.5 As at the date of the committee's inspection and hearing the Tenant had left the property.
- 9.6 In relation to the matters complained of in the Application, the inspection revealed:
- i. There is a small communal car parking area to the front of the Property. The boundary of the car park with the public pavement consists of a low level brick wall. This is in poor condition and decaying. The wall is not at risk of causing any harm. The condition of the wall does not adversely affect the use or enjoyment of the Property by any tenant.
 - ii. The gutters and rhones are maintained by the Landlord personally. They are not choked nor leaking. They are in proper working order.
 - iii. The front door of the Property which is at ground level is capable of being closed and secured and is wind and watertight.

- iv. The window units in all of the rooms can be opened and shut and secured. They have adequate seals. They are wind and watertight.
- v. The floor coverings within the Property are adequate. The living room carpet has one small cut under the radiator which is not visible. The use of the said carpet is not impaired. There is no trip hazard.
- vi. The furnishings supplied by the Landlord to any tenant are adequate. A new mattress has been provided by the Landlord for the bedroom within recent months.
- vii. There is no gas supply in the Property. Heating is provided by way of electric storage heaters.
- viii. At the time of the inspection the door at the top of the internal stairs leading to the rest of the accommodation within the property had a full length glass pane which was not safety glass and not toughened.

Reasons for the Decision

10. The committee determined the Application having regard to the bundle of papers (which had been made available in advance to parties), their inspection, together with the evidence taken at the Hearing.
11. The committee were only able to formally consider the Tenant's complaints which formed part of the intimated Application. The committee were also under an obligation to consider the Tenant's complaints as at the time of the Hearing on 5 March 2015.
12. The committee was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the reference.
13. The inspection carried out by the committee raised no significant concerns. The committee did however identify that the door at the top of the internal stairs leading to the rest of the accommodation had a single pane of non-safety glass which would cause a potential health and safety concern and, as such, was not a fixture or fitting which was in a reasonable state of repair and in proper working order.
14. The Landlord acknowledged the difficulty with the door at the top of the internal stairs and undertook to resolve the issue over a brief space of time by either replacement or removal of the door.
15. The committee considered that the application generally was somewhat vexatious given the nature of some of the concerns which had been

raised by the Tenant. The committee were of the view that it would have been disproportionate to proceed to issue a Repairing Standard Enforcement Order for the purposes of the replacement or removal of the door at the top of the internal stairs. Given the nature of the Landlord's undertaking a Direction was issued following the inspection and Hearing providing the Landlord with 21 days to replace or remove the door and to provide photographic evidence.

16. The Landlord subsequently provided photographic evidence which vouched the fact that the door had been removed. The committee considered this evidence and were satisfied that there was no requirement for a re-inspection of the Property to be carried out. The committee were satisfied that the Property met the Repairing Standard.
17. Reference is made to the committee's findings to which reference is made.
18. The committee delayed the issuing of this Statement of Decision so as to allow the Landlord the opportunity to voluntarily resolve the one issue which he accepted failed to meet the Repairing Standard. Following the Landlord's resolution of the issue, and the committee being satisfied that that issue had been resolved, the committee was satisfied that the property met the repairing standard and in the circumstances do not find it necessary to make any Repairing Standard Enforcement Order.

Decision

19. The Property meets the Repairing Standard. The Landlord has complied with their duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006. No Repairing Standard Enforcement Order is necessary.

Right of Appeal

20. 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 of the Act

21. Where such an appeal is made, the effect of the decision and of any order made, 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 date on which the appeal is abandoned or so determined.

Signed **R. Mill** Date 22 April 2015
Chairman



NOTICE OF DIRECTION

**Issued by the Private Rented Housing Committee
in terms of Schedule 2 Paragraphs 2(1) and 3(1)(b) of the Housing
(Scotland) Act 2006 and Regulation 14 of the Private Rented Housing
Panel (Applications and Determinations)(Scotland) Regulations 2007
in relation to an application made to the Private Rented Housing Panel
relating to the after-mentioned property.**

Reference number: - PRHP/RP/14/0217

Re: Property at 100C Mid Street, Bathgate, West Lothian EH48 1QF ("the Property")

The Parties:-

DAVID SINNET, formerly residing at 100C Mid Street, Bathgate, West Lothian EH48 1QF ("the Tenant")

EDWARD PETRIE, residing at 31 Ballencrieff, Balmuir Road, Bathgate, West Lothian EH48 4LL ("the Landlord")

NOTICE TO THE PARTIES

Given the nature of the alleged repairs detailed in the Tenant's Application made under section 22(1) of the Housing (Scotland) Act 2006 and in order to assist in the determination of the Application, the Private Rented Housing Committee, on its own initiative and for the purpose of making inquiries in terms of paragraph 3 (1) of schedule 2 of the Housing (Scotland) Act 2006, give the following Direction to the Landlord as to the conduct and progress of this Application in terms of Regulation 14 of the Private Rented Housing Panel (Applications and Determination) (Scotland) Regulations 2007 :-

1. The Tenant who made the Application to be considered by the committee has now left the property.
2. The committee inspected the property and conducted a Hearing all on 5 March 2015.
3. The only issue of concern identified by the committee was the existence of an internal door containing full length glass which is unsafe due to a lack of toughened or safety glass.
4. The Landlord accepts that the door requires to be remedied. At the Hearing he undertook, within 21 days, to replace or remove the door and to provide photographic evidence.
5. In the event that the Landlord provides photographic evidence in respect of item 4 above then the committee will proceed to issue a Statement of Decision but will not find it necessary to make a Repairing Standard Enforcement Order. No re-inspection will be necessary by the committee.
6. The committee issues this Direction and proceeds in the manner described as a means of determining the Application and disposing of it in a proportionate and expeditious manner.

R. Mill

Chairperson of the Committee
Dated: 5 March 2015