



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

prhp Ref: prhp/RP/14/0262

Re : Property at 4, 2/1, Clepington Street, Dundee, DD3 7PR ("the Property")

The Parties:-

Miss Kornelija Gaizauskaite, 4, 2/1 Clepington Street, Dundee ("the Tenant")

Mr Robert Allan, care of Lara Letting Limited, Bank House, 1 Stirling Street, Dundee, DD3 6PJ ("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 concerned, and taking account of the evidence led by the Tenant at the hearing, 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 4 November 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 Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant considered that the Landlord had failed to comply with the duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that the house was wind and water tight and in all other respects reasonably fit for human habitation, that the structure and exterior of the house (including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order, that any fixtures, fittings and appliances provided by the Landlord under the Tenancy were in a reasonable state of repair and in proper working order and that the house had satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. The President of the Private Rented Housing Panel intimated the decision to refer the application under Section 23(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. The Landlord sent various emails attaching invoices in connection with work done at the property. This documentation suggested that much of the work at the property had been done. The invoices however were not entirely satisfactory as they did not all identify the property and the Committee could also not be satisfied that the repair to the window sills had in fact stopped the leak in the property. The Committee also noted that the Tenant had ticked the box with regard to there being a problem with the fire alarm system in the property and the Committee accordingly asked the Landlord to confirm that hardwired smoke detectors were installed in the property. The Committee also asked the Tenant to confirm whether or not she agreed that all the work had been completed. The Tenant confirmed that all the jobs in the flat had been done. The Private Rented Housing

Committee accordingly contacted the Tenant to ask if she wished to withdraw her application. The Tenant confirmed that she was not withdrawing the application and would like the hearing to proceed.

6. In the circumstances the Private Rented Housing Committee (comprising of Mrs Judith Lea, Chairman and Legal Member and Geraldine Wooley, Surveyor Member) inspected the Property on 20 April 2015. The Tenant was present with her mother, Rita Gaizouskiene. The Landlord was not present or represented.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Kirkton Community Centre, Derwent Avenue, Dundee. The Tenant and her mother were present. The Landlord was not present or represented.
8. The Tenant advised that there had been no hot water in the shower for quite a few weeks. The Tenant however confirmed that the shower had now been fixed by the Landlord. The Tenant advised that the leak in the kitchen and bedroom went on for three months. The Tenant however confirmed that the leak was not now happening. The Tenant advised that there had not been any leakage since around January 2015. The Tenant also advised that there had been a leak from the bath during the Christmas holidays but this had been fixed. The Tenant confirmed that the issue was the amount of time it took the Landlord to fix the problems that were raised by them. The Committee clarified with the Tenant that they did in fact accept that the Landlord had dealt everything that was mentioned in the application made by the Tenant to the Private Rented Housing Committee. The Tenant confirmed that this was correct. The Committee enquired of the Tenant as to what it was they wished the Committee to do. The Tenant indicated that she wished the Landlord to stop ignoring them and did not want to have to continue to write a lot of letters about everything. The Committee enquired of the Tenant what the position was with regard to the smoke alarm system. The Tenant confirmed that these had recently been inspected and that there was no issue with the smoke alarm detection system in the property.

DECISION

9. It was clear from the inspection, the invoices produced by the Landlord and the submissions made by the Tenant that the Landlord had dealt with all the issues of disrepair raised in the Tenant's application. The Committee accordingly could not find that the Landlord had breached the Repairing Standard in respect of any of the issues raised by the Tenant in her application.
10. The Committee noted that there was a hard wired smoke alarm system in the property but the Committee would draw the Landlord's attention to the most up to date guidance as set out in the Building Regulations, a copy of which is attached to this decision.
11. During the inspection the Tenant also drew the Committee's attention to the emersion heater fitting which is old and has exposed wiring which is hazardous. The Committee also noted that the whole electrical system is dated and the Committee would strongly recommend that the Landlord have an electrician prepare an electrical inspection condition report to ensure that the electrics in the property are safe.
12. The Committee did not make any Repairing Standard Enforcement Order on the property.
13. The decision of the Committee was 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.

Signed **J. Lea** Date..... 27/4/15.....
Chairperson

HOUSING (SCOTLAND) ACT 2006: SCOTTISH GOVERNMENT GUIDANCE ON SATISFACTORY PROVISION FOR DETECTING AND WARNING OF FIRES

1. Section 13(1) of the Housing (Scotland) Act 2006 sets out the criteria that must be met if a house is to comply with the Repairing Standard. One part of the Repairing Standard is that a house should have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. There are more than 7000 reported fires in dwellings (e.g. houses, flats and maisonettes) every year in Scotland. Fires can have a devastating effect on the lives of people and results in around 60 deaths and 1700 injuries each year. According to national fire statistics dwelling fires in which smoke alarms raise the alarm continue to:

- be discovered more rapidly (less than 5 minutes) after ignition; and
- be associated with lower fatal casualty rates.

2. The installation of smoke and fire detectors is intended to reduce the risk of fire and the consequent loss of life, injury and damage to property. Because of these dangers, the Repairing Standard sets a high benchmark for smoke and fire detection, matching the standard required for new building and which is higher than many owner-occupiers will meet for their own homes. All privately rented homes should, if at all possible, meet this standard. However, the most important thing is that there should be some provision to detect fires and that this should be operational and in good working order.

3. As stated in section 13(5) of the 2006 Act, in deciding whether this standard is met in relation to the fire safety standard, regard must be had to any building regulations and any guidance on the subject issued by the Scottish Ministers.

4. Building regulations set out the essential standards to be met when building work or a conversion takes place. The reference to building regulations in the Repairing Standard does not mean that privately rented property must always comply with building regulations. However, landlords should be aware of what the building regulations say in relation to smoke and fire detectors and have regard to those regulations in assessing what level of smoke and fire detectors are needed to ensure that the home has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. This means that landlords should either install smoke and fire detectors that meet the standard set by building regulations or be able to justify why a lesser level of protection is appropriate in a particular home. Reasons why a lesser level of protection might be appropriate could include:

- Where the proximity of an open fireplace would make a detector impracticable,
- Where the cost of installing detectors would be prohibitive (this is more likely to be due to the cost of structural alterations necessary to install detectors rather than the cost of the detectors themselves)
- Where the landlord intends to install detectors within a reasonable timescale as part of a programme of upgrading property.

5. Landlords are entitled to rely on professional advice from qualified electricians on their compliance with the standards in building regulations.

6. Landlords should note that building standards were amended from 1 October 2010, and revised technical guidance has been issued by Building Standards Division (Technical Handbooks 2013: – Domestic – Fire, <http://www.scotland.gov.uk/Topics/Built-Environment/Building/Building-standards/publications/pubtech/th2013dom2>).

7. The revised Domestic Technical Handbook guidance states there should be at least:

- one functioning smoke alarm in the¹ room which is frequently used by the occupants for general daytime living purposes,
- one functioning smoke alarm in every circulation space, such as hallways and landings,
- one heat alarm in every kitchen, and
- all alarms should be interlinked.

8. When the Repairing Standard was introduced (3 September 2007) the building standards regulations required that there should be one or more than one functioning smoke alarm installed in the house, the number and position of alarms to be determined by the size and layout of the house. There was normally to be at least one smoke alarm on each floor. If there were multiple alarms, they should be interlinked. A smoke alarm installed from 3 September 2007 onwards had to be mains powered with a standby power supply. Note that the manufacturer's recommended life span of a fire alarm is usually 5-10 years and all battery-powered fire alarms in private rented houses should be hardwired when they are replaced.

9. If there is a requirement for the house to meet a more stringent standard of provision for detecting and giving warning of fire (for example, in a house in multiple occupation (HMO) requiring to be licensed, or under building regulations), then the Repairing Standard criterion is only to be regarded as met if that requirement is met. An alarm should be installed in accordance with the recommendations contained in the British Standard on the design of fire detection installations for dwellings (BS5839 Part 6) in conjunction with the Domestic Technical Handbook guidance under Standard 2.11 Communication. The fitting of a hardwired smoke/heat alarm system may require a building warrant and landlords should consult the Building Standards department of the local authority.

10. The repairing standard does not include carbon monoxide alarms. At least 50 people die of carbon monoxide poisoning every year in the UK and installation of carbon monoxide alarms is recommended as good practice. However, from 1

¹ Text amended September 2014. Building regulations were updated in May 2014 and the word "every" was replaced by "the" in clause 2.11.1 of the technical handbook.

See <http://www.scotland.gov.uk/Topics/Built-Environment/Building/Building-standards/techbooks/techhandbooks/therrt14>.

October 2013 Scottish building regulations require carbon monoxide detectors to be fitted when a new or replacement boiler or other fixed heating appliance is installed in a dwelling. The need for carbon monoxide detection applies to any fixed heating appliance powered by a carbon based fuel, that is, gas (both mains and liquid petroleum gas), oil and solid fuel (coal, coke, wood, wood pellets, etc.).

11. Landlords should ensure that smoke and heat alarms are regularly maintained in accordance with the manufacturer's recommendations.

12. It is recommended as good practice that landlords advise tenants to test alarms on a weekly basis. It is also recommended that landlords should advise tenants not to tamper with alarms.

13. The risk of fire can be reduced by ensuring the electrical installations and appliances are safe. It is also part of the Repairing Standard that the installations in the house for the supply of electricity and any appliances provided by the landlord are in a reasonable state of repair and in proper working order. The Electrical Safety Council suggest that the best way for landlords to comply with this is by having a registered electrician carry out an inspection and test of the electrical installation (known as an Electrical Installation Condition Report) and Portable Appliance Testing at suitable intervals. Landlords may also wish to provide advice for tenants on ensuring the safety of any appliances brought into the house by the tenants.

14. Before a tenancy commences, landlords should:

- Carry out an inspection check to confirm that the house meets the repairing standard (required by section 19 of the Housing (Scotland) Act 2006, see page 3 of this advice pack).
- Provide a new tenant with a copy of a gas safety certificate (required by regulation 36 of the Gas Safety (Installation and Use) Regulations 1998).
- Provide a new tenant with a copy of an electrical safety certificate (best practice).
- Provide a new tenant with a copy of a valid energy performance certificate (required by the Energy Performance of Buildings (Scotland) Amendment (No. 2) Regulations 2012).

15. The Scottish Fire and Rescue Service (SFRS) offer free home (i.e. domestic premises) fire safety visits (HFSVs) comprising an assessment of fire risk within the home at that time and the provision of advice on preventing fires, avoiding fire spread and formulating an escape plan in event of fire. Additionally, SFRS staff may on occasion, if available and appropriate, fit long life battery operated smoke and heat alarm(s). Note that a HFSV is neither a substitute for responsible persons complying with their specific legal obligations under the Fire (Scotland) Act 2005 nor does it signify compliance by persons with any other legislative requirement or standard. To arrange a free Home Fire Safety Visit: call 0800 0731 999; or visit www.firescotland.gov.uk.