

## **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**

**Re : Property 42, Burns Crescent, Irvine ('the Property')**

**The Parties:-**

**Ms Ellen Cooper residing at 42, Burns Crescent, Irvine, KA11 1AS ('the Tenant')**

**Mr R Neil c/o 1 Doonholm Road, Alloway, Ayr ('the Landlord')**

#### **Decision**

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the duty imposed by Section 14 (1)(b) in relation to the Property 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 12<sup>th</sup> February 2009 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords 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 stated that she 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 (1) The Property is wind and watertight and in all other respects reasonably fit for human habitation (2) The structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and proper working order and (3) the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order. In particular she advised that:-
  - (1) " My house is cold all the time even though I am spending a lot of money trying to heat it".
  - (2) "Pipes are always needing repaired on the outside of the Property"
  - (3) "On occasion I can't use my back garden due to flooding".
3. The President of the Private Rented Housing Panel after considering the application determined 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 Tenant.
5. Following service of the Notice of Referral:-
  1. The Tenant sent the following written representations to the Committee:-

- a. Letter from Janice Ferrol of Community Housing Advocacy Project, Irvine to the landlord's agents Waterpark Properties dated 9<sup>th</sup> October 2008 advising: 'Black patches have appeared on the ceiling and walls. I understand you are going to arranging for these to be treated with black paint. A downpipe is leaking and has to be repaired. Ms Cooper also maintains that the house is never warm even though the central heating is on regularly. She is wondering if there is dampness in the property. She also states that she was expecting fans to be installed in the kitchen and bathroom. I am concerned that the disrepair may cause more damage to the property if it is not fixed immediately. In addition, I am worried that the problem may have an adverse effect on our client's health. Our client suffers from severe respiratory problems and has been hospitalized on numerous occasions.'
- b. Letter from the Tenant dated 28<sup>th</sup> February 2009 advising: 'The main complaint I have is the central heating system to be inappropriate. I have contacted my landlord regarding this and according to his tradesman there is not a problem. I feel that the house is cold all the time and it is costing me quite a bit of money trying to heat it to a tolerable standard. This problem has been ongoing for a long time and I feel that I'm not getting anywhere. My health is deteriorating.'

2. The Landlord sent the following written representations to the Committee:-

- a. Letter from the Landlord's agents (Waterpark Properties) to the Tenant dated 8<sup>th</sup> October 2008 advising *inter alia* the complaint of dampness in the back bedroom is a condensation problem, created by poor ventilation in her home when cooking, drying clothes inside and taking baths and showers..... In response to the Tenant's suggestion that fans be installed in the kitchen and bathroom, whilst the fans may have helped the removal of moisture they feel that they would make the property draughtier. They recommend that the Tenant arranges for cavity wall insulation to be installed at no expense to the Tenant.
- b. Letter from HomeCare Gas Services dated 27<sup>th</sup> January 2009 advising *inter alia* the central heating in the Property was installed by the local authority some time ago and is 15 to 20 years old. It has been maintained throughout that time and is in reasonable condition for its age. The boiler is current and most parts are still available. The installation is working as expected and is no less efficient now than it was when it was new. The radiators, when the installation is switched are achieving their designed temperature.

6. The Private Rented Housing Committee inspected the Property on the morning of 24th June 2009. The Landlord attended the inspection. At the inspection the Tenant advised the Committee that the central heating and the external pipes had been satisfactorily repaired. In addition she advised that the flooding problem in the back garden had been resolved.
7. A hearing was held in the Property following the inspection. The Tenant, the Landlord and the Landlord's partner Louise Mair were present at the hearing. The parties confirmed that the central heating and the external pipes had been repaired and the flooding problem in the back garden had been resolved.

**Summary of the issues**

8. The issues to be determined are whether the defects claimed by the Tenant were present at the time of the inspection resulting in the Landlord failing to meet the Repairing

Standard. The defects claimed are:- (1) The Central heating is faulty (2) The external pipes are faulty and (3) The garden is susceptible to flooding.

**Findings of fact and reasons for the decision.**

9. The Committee finds:-
- The defects to the Central heating and the external pipes have been repaired.
  - There was no evidence of flooding in the garden and the Tenant stated that the flooding issue had been resolved.

**Decision**

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

**Right of Appeal**

12. 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**

13. 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 Taylor** .....  
Chairperson

Date: 25<sup>th</sup> June 2009