



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

prhp Ref: PRHP/RP/15/5

Re: Property at 19D Court Street, Dundee, DD3 7QS ("the Property")

The Parties:-

MS SHARON NEWTON formerly residing at 19D Court Street, Dundee, DD3 7QS ("the Tenant")

KENNETH ALEXANDER JAMES ADAMS, KEVIN ADAMS and GRANT ADAMS as Partners of and Trustees for the Firm of KKG Properties, Block 1A, Dunsinane Avenue, Dundee ("the Landlords")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, determined that the Landlords had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 30 December 2014 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 the Tenant considered that the Landlords had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlords had failed to ensure that:-
 - (a) 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;
3. By letter dated 12 March 2015 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 Landlords and the Tenant.
5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than her original application. The Landlords made no written representations to the Committee.
6. Prior to the date of the inspection, the Committee received notification that the Tenant had left the Property and that the tenancy had been terminated. In terms of Schedule 2, Paragraph 7(1) of the Act, the Tenant is treated as having withdrawn the application. However in terms of Schedule 2, Paragraph 7(3) of the Act, it is for the Committee to determine whether to abandon the application or to continue to hear it. The Committee had noted that the Tenant's application contained one ground of complaint in relation to a

defective boiler. Given the potential health and safety implications of a defective boiler, the Committee determined that they would continue to deal with the application and would not abandon. The Committee did indicate as part of this preliminary determination that if the landlords produced a gas safety certificate they would reconsider whether to proceed or not. This documentation was not produced by the Landlords prior to the date of the inspection and hearing and the case proceeded.

7. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member; Mr I Mowatt, Surveyor Member; and Mrs I Kitson, Housing Member) inspected the Property on the morning of 8 May 2015. Mr Kenneth Adams, the Landlord, was present during the inspection.
8. Following the inspection of the Property, the Private Rented Housing Committee held a Hearing at the Douglas Community Centre, Balmoral Avenue, Dundee. Neither party was present or represented.
9. There were no written submissions from the Tenant but the Committee noted that her application related to a defective boiler and the Tenant had provided a letter from McGill Electricians confirming that there were a number of defective aspects to the boiler.
10. The Landlords made no formal submission as they did not attend the Hearing. They did however produce a gas safety certificate at the inspection.

Summary of the issues

11. The issue to be determined was whether the boiler was in proper working order and met the repairing standard.

Findings of fact

12. The Committee found the following fact to be established:-

- The boiler was in proper working order and met the repairing standard.

Reasons for the decision

13. The Committee based its decision primarily on the evidence obtained during the course of the inspection. The Surveyor Member noted that a new boiler had been installed and from a visual inspection appeared to be compliant. The Landlords produced a current gas safety certificate for the boiler and also an invoice from a recognised gas installer confirming installation of a new boiler. On that basis the Committee was satisfied that compliance had been achieved and no further action required to be taken.

Decision

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

Right of Appeal

16. **A Landlord(s) 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

17. 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**
Chairper

Date..... 20/5/15