

Determination by Private Rented Housing Committee

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the committee")

Under Section 24(1) of the Housing (Scotland) Act 2006 ("the Act")

Case Reference Number: PRHP/RP/15/0050

Re: - 0/2 805 Dalmarnock Road, Glasgow G40 4QB ("the property")

Land Register Title No: GLA 64896

The Parties:-

Mr James Grieve, formerly residing at the property ("the tenant")

**Stag Properties Limited, Strathmore Business Centre, 122 Strathmore Road,
Glasgow G22 7DW ("the landlord")**

Committee Members – Sarah O'Neill (Chairperson); Sara Hesp (Surveyor Member)

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) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, and taking account of all the available evidence, determines that the property complies with the repairing standard set out in section 13 of the Act, and that the landlord has not failed to comply with any of the duties imposed on it under Section 14 of the Act. The committee has therefore decided not to make a Repairing Standard Enforcement Order (RSEO) in terms of Section 24(2) of the Act.

The committee's decision is unanimous.

Background

1. By application dated 28 January 2015, the tenant applied to the Private Rented Housing Panel ("the panel") for a determination that the landlord had failed to comply with its duties under Section 14(1) of the Act.
2. In his application, the tenant stated that he believed the landlord had failed to comply with its duty to ensure that the property met the repairing standard as set out in sections 13(1) (a) and (b) of the Act. His application stated that the landlord had failed to ensure that:
 - the house is wind and watertight and in all other respects reasonably fit for human habitation
 - 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
3. The tenant made the following complaints in his application:
 1. The property has been letting in water for years, and the tenant was unable to use one room as a result.
 2. There is mould on fabrics in the property.
4. The tenant stated in his application that the following work required to be carried out at the property:
 1. Dry proofing.
 2. Fix mould issue.
5. On 18 May 2015, the President of the panel issued a minute of decision stating that she considered that in terms of section 23 (3) of the Act there was no longer a reasonable prospect of the dispute being resolved between the parties at a later date; that she had considered the application paperwork submitted by the tenant, comprising documents received in the period of 6 February to 18 May 2015; and intimating her decision to refer the application to a panel committee for determination.
6. By letter dated 15 June 2014, the panel wrote to the parties, notifying them under and in terms of the 2006 Act of the President's decision to refer the application under Section 22(1) of the Act to a private rented housing committee. Written representations were requested by 6 July 2015.
7. On 16 June, the panel administration received confirmation by email from the tenant that he had vacated the property on 17 February 2015. On 30 June

2015, the committee issued a minute of continuation to a determination under Schedule 2 Paragraph 7(3) of the Act. This stated that, having received written confirmation from the tenant that the tenancy had been lawfully terminated, the tenant was to be treated as having withdrawn his application in terms of Schedule 2 Paragraph 7 (1) of the Act. It then stated that the committee considered that the application should be determined on public interest grounds, due to the nature of the alleged repairs and the potential effects on any future tenant/occupiers if those allegations were substantiated.

8. Written representations were received from Mr Gerard Dolan, Property Manager for the landlord on 3 July 2015. These stated that:
 - 1) Reports of ongoing water ingress from the same source are false
 - 2) Previous leaks were individually confirmed and dealt with accordingly. Windows were initially resealed and later replaced.
 - 3) The last reported issue was never verified, despite the landlord's offer to visit the property, and confirmation from the tenant that the carpet was dry following a visit from the factor's contractors
 - 4) Since the tenant's departure, the landlord had not observed any water ingress to the property.
 - 5) That the landlord had 'chased' the factor regarding the proposed re-pointing of stonework, which although inconclusive with regard to the reported leak, remained an outstanding repair on the landlord's agenda.

The inspection

9. The committee inspected the property on the morning of 16 July 2015. The weather conditions at the time of the committee's inspection were dry and bright. Mr Gerard Dolan, Property Manager for the landlord gave access to the committee, and was present at the property during the inspection. Photographs were taken during the inspection and are attached as a schedule to this decision.

The property

10. The property is the second right hand flat on the ground floor of a four-storey tenement building of red sandstone and tile construction which is estimated to be more than 100 years old. The property comprises: living room/ kitchen, two bedrooms and a bathroom. The property is unfurnished and is currently unoccupied.

The hearing

11. Following its inspection, the committee held a hearing at the offices of the Private Rented Housing Panel, Europa Building, 450 Argyle Street, Glasgow G2 8LH. Mr Gerard Dolan, Property Manager at Stag Properties Ltd, represented the landlord at the hearing. The tenant was not present at the hearing.

The evidence

12. The evidence before the committee consisted of:

- The application form completed by the tenant.
- Registers Direct copy of Land Register title GLA64896
- Copy of a short assured tenancy agreement between the landlords and the tenant and Ms Laura Davidson dated 1 December 2011, together with forms AT5 and AT6, deposit receipt signed on behalf of the landlord, and an inventory of items of property, also signed by the tenant and Ms Laura Davidson
- Various copy email correspondence between the tenant and Mr Dolan dated between 9 December 2014 and 5 February 2015.
- The written representations from the landlord.
- The committee's inspection of the property.
- The oral representations of the landlord's representative at the hearing.

Summary of the issues

13. The issue to be determined was whether the property meets the repairing standard as set out in Section 13 of the Act, and whether the landlords have complied with the duty imposed on them by section 14 (1) (b).

Findings of fact

14. The committee made the following findings in fact:

- The tenant and Ms Laura Davidson entered into a short assured tenancy agreement with the landlord which commenced on 1 December 2011. He remained in the property until 17 February 2015.
- The property is owned and managed by Stag Properties Ltd.
- The committee in its inspection carefully checked the items which were the subject of the complaint. The committee observed the following:

- i. There were no signs of water ingress, either through the windows, or elsewhere, anywhere within the property.
- ii. UPVC windows had been fitted at the front of the property, while there were older style timber windows at the rear.
- iii. Readings were taken with a calibrated damp meter in every room, and these indicated no signs of damp (aside from slightly raised levels in the bathroom, as described below).
- iv. The wallpaper in the rear bedroom was peeling off the walls, and there were signs of mould on the skirtings, but the damp meter indicated that there was not sufficient moisture present to cause any concern at the time of inspection.
- v. There was mould growth on the bathroom ceiling, and slightly raised damp levels of damp on the rear wall of the bathroom next to the toilet, but these were not significant.
- vi. There is no central heating within the property. Heating is provided by means of electric plug-in heaters.
- vii. There was a gap in the ceiling around the light fitting in the rear bedroom, which appeared to have been patched up with paper which was stuck to the ceiling.
- viii. The committee also inspected the front and rear elevations of the building from outside the property, and observed no signs of dampness or water ingress. It noted that the bay window of the flat above the front bedroom may be a possible source of water ingress, and that the stones underneath the front bedroom window would benefit from repointing and could be a potential source of water ingress. There was, however, no sign of any water ingress issues inside the property.
- ix. There was one smoke alarm within the hallway of the property.

Reasons for decision

15. Mr Dolan told the committee that the landlord would always check out any complaints made by its tenants, and would send tradespeople to a property if any problems were identified. He said that the tenant had refused to allow the landlord access to the property to check the issues complained about in his application form. He had gone to inspect the property after the tenant had moved out, but had found no signs of water ingress or dampness.

16. He told the committee that the windows at the front of the property had been replaced at some point during the tenant's tenancy period, although he could not recall exactly when this had taken place. He had been in touch with the property factor for the building with regard to the alleged water ingress, and a contractor had been sent out to look at this. A slightly open joint below the bay window of the flat above had been identified as a potential source of water ingress. The factor was in the process of discussing possible repointing works with the owners of the flats within the tenement, and the landlord had been in contact with them about this. Mr Dolan said that had there been signs of water ingress within the property, he would have pushed the property factor harder to progress this.
17. The committee observed no signs of water ingress or penetrating damp or rising damp during its inspection. The committee concluded that any dampness issues within the property which may have been experienced by the tenant were likely to have been due to condensation and a lack of adequate ventilation in the property. This was likely to have been a result of the combination of the lack of central heating within the property and the failure of the tenant to ventilate the property sufficiently. This was also the probable cause of the mould observed in the bathroom. The committee does note, however, that given the location of the property, there may be security and noise considerations to take into account in ventilating the property, particularly at the front.

Observations

18. While this was not a matter complained about by the tenant in his application, the committee observed during its inspection that there was only one smoke alarm within the property, in the hallway. When questioned about this by the committee, Mr Dolan stated that he believed this was compliant with the current requirements. He also indicated to the committee that the landlord was always open to suggestions on how to make improvements to its practice.
19. The committee observes that the updated Scottish Government statutory guidance, which was introduced in September 2014, states that there should be: at least one functioning smoke alarm in the 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 that all alarms should be interlinked. This guidance is available on the panel's website.¹

20. While there was no complaint about this in the tenant's application, the committee also observes that the patched up hole in the ceiling in the back bedroom around the ceiling light should be addressed. Mr Dolan told the committee at the hearing that the previous tenant had installed a false ceiling with halogen lights in that room, which had been removed. He thought that perhaps when this had been done, some plaster had come away from the ceiling. He advised that the property was shortly to be redecorated, and suggested that this was an issue for the decorator to resolve.

Summary of decision

21. On the basis of all the evidence before it, the committee found that at the time of its inspection the property was in a state of repair which met the repairing standard. The decision of the committee was therefore unanimous not to make an RSEO and to dismiss the tenant's application.

Rights of Appeal

22. A landlord or tenant aggrieved by the decision of the committee may appeal to the sheriff by summary application within 21 days of being notified of that decision.
23. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the panel or the committee which made the decision.

Effects of Section 63 of the 2006 Act

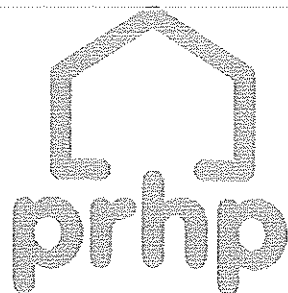
24. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed.... **S. O'Neill**

.....Date..... 21/7/15

Sarah O'Neill, Chairperson

¹<http://www.prhpscotland.gov.uk/prhp/files/Scottish%20Government%20guidance%20on%20satisfactory%20provison%20for%20detecting%20and%20warning%20of%20fires%20updated%200sep%202014.pdf>

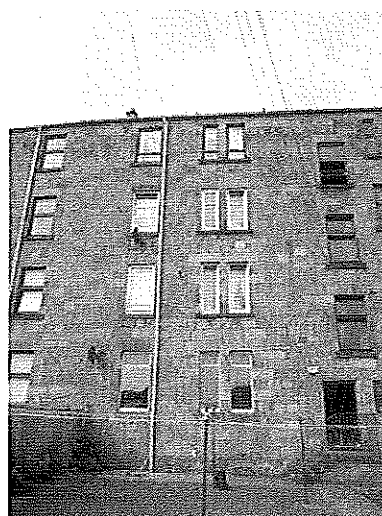


Schedule of photographs taken during the inspection of 0/2 805 Dalmarnock Road,
Glasgow G40 4QB by the Private Rented Housing Committee on 16 July 2015

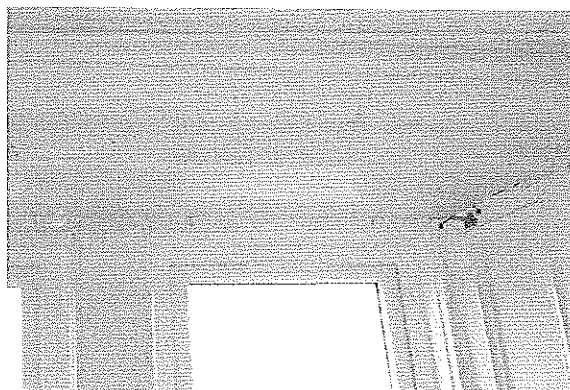
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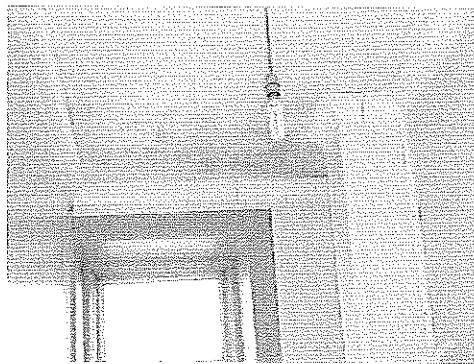
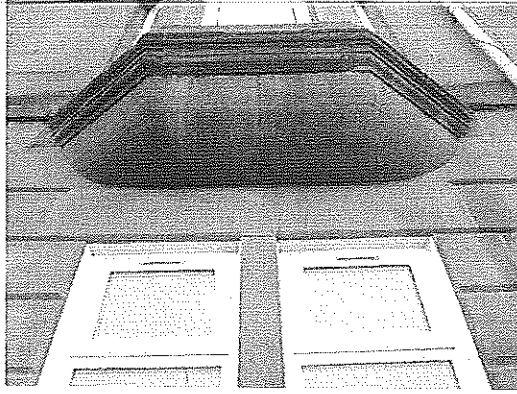
Front elevation



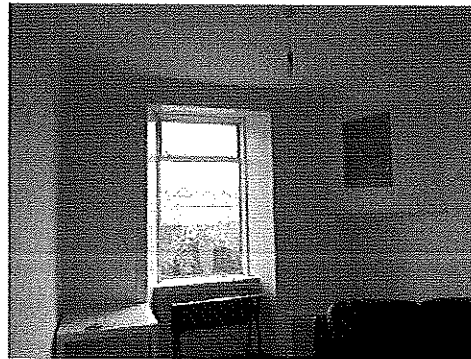
Rear elevation



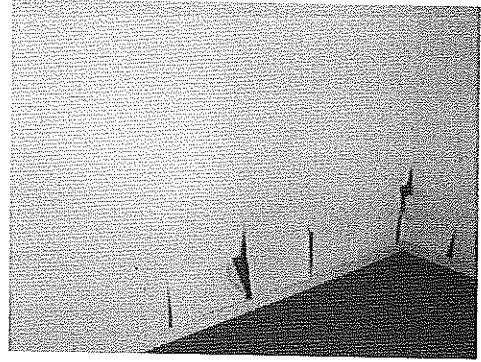
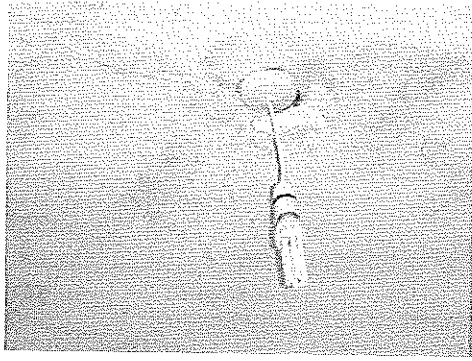
Bed 1 (front): above – interior; below – exterior



Bathroom



Kitchen/living room



Bedroom 2