



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

prhp Ref: prhp/rp/15/0058

Re : 131 High Street, Leslie, KY6 3DQ ("the Property")

Land Register Number: FFE65089

### The Parties:-

Mr Joseph Thorpe, formerly of 131 High Street, Leslie, KY6 3DQ ("the former Tenant")

Mr Fateh Hussain and Mrs Fatima Hussain, 141 High Street, Leslie, KY6 3DQ ("the Landlord")

### Decision

The Committee having made such enquiries as it thought fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14(1)(b) in relation to the house concerned and taking account of the evidence provided by the Landlord, determine that the Landlord has not failed to comply with the duty imposed by Section 14(1)(b) of the Act.

### Background

1. By application dated 26 January 2015 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 former Tenant stated that the former Tenant considered that the Landlord had failed to comply with the duty to ensure that the house is wind and water tight and in all other respects reasonably fit for human habitation, that the installations in the house 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, that any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order and that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. After the application was lodged but prior to the matter being referred to a Private Rented Housing Committee, the Tenant requested that the application be withdrawn.
4. A Private Rented Housing Committee then considered whether or not the application should be determined or whether it should be abandoned in terms of Schedule 2, paragraph 7(3) of the Act. This Private Rented Housing Committee noted that the repairs alleged by the Tenant were, if substantiated, likely to raise potentially serious health and safety issues for occupants and issues as to whether the property was wind and taught and fit for human habitation. The Committee accordingly determined that on health and safety grounds due to the nature of the alleged repairs and potential effects for any occupants of the house, if the allegations made by the former Tenant were substantiated, the matter should be continued and a Committee should determine the application.
5. The President of the Private Rented Housing Panel accordingly intimated the decision to refer the application under Section 23(1) of the Act to a Private Rented Housing

Committee. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2 paragraph 1 of the Act upon the Landlord.

6. The Private Rented Housing Committee, comprising Judith Lea, Chairman and Legal Member and Geraldine Wooley, Surveyor Member, inspected the Property on 28 April 2015. The former Tenant had left the property and accordingly was not present. The Landlord was not present or represented. A new Tenant was present within the property and gave the Committee access.
7. Following the inspection of the Property, the Private Rented Housing Committee held a hearing at Collydean Community Centre, Torpins Avenue, Glenrothes. The Landlord did not attend the hearing.
8. The former Tenant raised a number of issues in her application and the Committee dealt with each of these issues in turn:-
9. Dampness in the Bedroom and Hall  
It was clear from the inspection that the bedroom had a new flat roof and the bedroom and the hall had been redecorated. There was no evidence of any damp in the property. The new Tenant advised that the Landlord had carried out extensive work before he had moved in. The Committee could see no evidence of any ongoing problem with damp and accordingly did not find a breach of the Repairing Standard.
10. Cracked Toilet Cistern  
From inspection it was clear that a new toilet has been installed in the property. The toilet cistern had no crack in it and the toilet was working. The Committee accordingly did not find any breach of the Repairing Standard.
11. Gas Safety Certificate, Central Heating Timer and Drainage Pipe on the Boiler  
It was clear from inspection that a new gas boiler and a new timer clock have been installed at the property. The new Tenant advised that the heating was working properly. There were however issues with the previous gas safety certificate and accordingly the Committee required the Landlord to produce an up to date gas safety certificate from a gas registered engineer or alternatively a gas installation certificate in connection the new central heating system. This should be in the Landlord's possession.
12. Smoke Detectors  
The former Tenant alleged that there were no mains operated smoke detectors in the property. There had previously been battery smoke detectors in the property but one of these has been removed. The new Tenant advised that a hardwired smoke alarm system was to be installed at the weekend. The Committee considered that the provision for smoke detection in the property was inadequate and a breach of Section 13(1)(f) of the Repairing Standard. Given that the Landlord had carried out a lot of work to the property and given the information provided by the new Tenant that the Landlord has scheduled work to install a hardwired smoke alarm system, the Committee agreed to give the Landlord a further period of time in order to have this work completed failing which a Repairing Standard Enforcement Order would be made.
13. The Electrical Installation in the Property  
The former Tenant complained that the electricity fuses/meter were very old. From inspection it is clear that the system is very old and copper wires were showing. The Committee had some concerns about the safety of the system and accordingly required the Landlord to produce an electrical condition inspection report.
14. The Committee considered it reasonable to allow the Landlord until 27 May 2015 to produce an up to date gas safety certificate, an electrical condition inspection report and also evidence that smoke and heat alarms complying with the up to date Building Regulations have been installed in the property.

15. The Landlord supplied a satisfactory gas safety certificate and electrical condition inspection report to the Committee. The Landlord however did not provide sufficient evidence of the installation of smoke alarms and heat detectors. The surveyor member of the Committee accordingly re-inspected the property on 30 July 2015. The new Tenant was present and the Landlord was also in attendance. On inspection it was found that a mains wire smoke and heat alarm system had been installed in the property, which meets the current standard. See photographs in Appendix 1 attached to this determination.

16. Decision

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

**Right of Appeal**

17. **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**

18. 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.

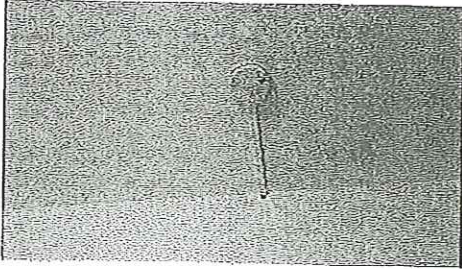
J Lea

Signed .....  
Chairperson

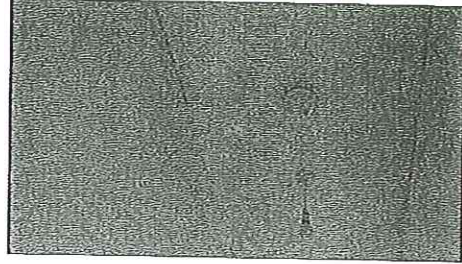
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## Appendix 1

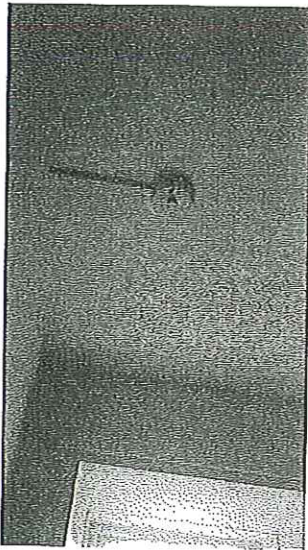
Smoke alarm in sitting room



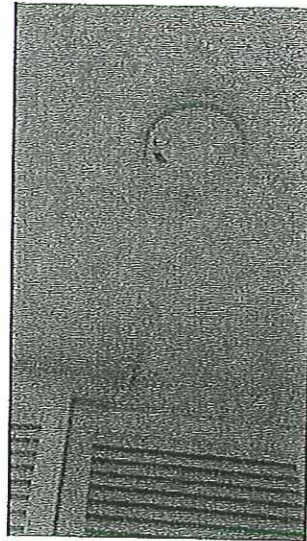
Smoke alarm in main lobby



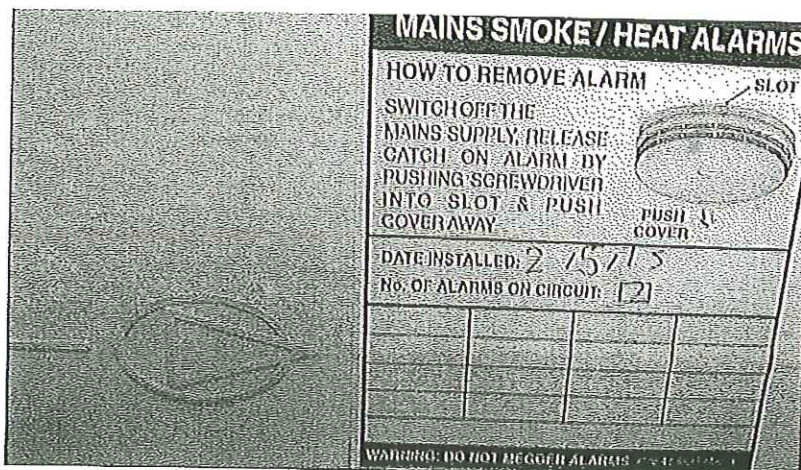
Heat alarm in kitchen



Smoke alarm in bedroom lobby



Installation notice



J Lea

5/8/15