



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

PRHP Ref: PRHP/RP/15/0077

Property at: 10 Larbert Avenue, Livingston, EH54 8QJ

Title No: WLN27195

The Parties

Mirosław Jezela, formerly residing at 10 Larbert Avenue, Livingston, EH54 8QJ ("the tenant")

and

James McDonald, residing at 10 Letham Park, Livingston, EH53 0NA ("the landlord")

Decision

The Committee, having made such enquiries as it sought 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 in relation to the property concerned and taking account of all of the evidence available to the Committee, determined that the landlord has complied with the duty imposed by Section 14(1)(b) of the 2006 Act.

Background

- 1 By application received 26 February 2015, the tenant applied to the Private Rented Housing Panel to determine whether or not the landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the 2006 Act").
- 2 The application by the tenant stated that the tenant considered that the landlord had failed to comply with his duty to ensure that the house meets the repairing standard and, in particular that the landlord had failed to ensure that:
 - (a) The fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order, in terms of Section 13(1)(d) of the 2006 Act;
 - (b) The furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed, in terms of Section 13(1)(e) of the 2006 Act; and

- (c) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, in terms of Section 13(1)(f) of the 2006 Act.

3 By interlocutor dated 2 May 2015, the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 23(1) of the 2006 Act to a Private Rented Housing Committee. The Committee was made up of:

Paul Doyle	Chairperson
Susan Napier	Surveyor Member
Christine Anderson	Housing Member

4 The Private Rented Housing Panel served notice of referral under and in terms of Schedule 2 Paragraph 1 of the 2006 Act on the landlord and the tenant on 29 May 2015. Following service of referral, neither party made any further written representations to the Private Rented Housing Panel.

5 By e-mail dated 1 June 2015, the tenant sought to withdraw his application and cancel the hearing and inspection arranged for 3 August 2015. By minute dated 17 June 2015, the Committee resolved to continue determination of the tenant's application because the tenant's application contained complaints which indicated that it would be in the public interest to continue consideration of the application.

6 The Committee inspected the property at 10am on 3 August 2015. The landlord was present. The tenant was neither present nor represented.

7 Following inspection of the property, the Private Rented Housing Committee held a hearing at Howden Park Centre, Howden, Livingston. The hearing was brief and informal because only the landlord was present (the tenant was neither present nor represented) and in the inspection at 10am that morning had resolved almost all of the issues.

8 The tenant's position is that the house is damp and covered in mould, that there are no fire detectors in the property, that the heating system does not work, that there is excessive humidity in the house and that "*...the safety checks are probably out of date*".

9 The landlord's position is that the tenant has fabricated the claim in order to improve his chances of obtaining housing from West Lothian Council more quickly.

Summary of Issues

10 The issues to be determined are whether or not the house complies with the repairing standard set out at Sections 13 and 14 of the 2006 Act.

Findings in Fact

11 (a) The landlord is the heritable proprietor of the property which is the subject matter of this application. He let the property to the tenant. The tenancy agreement terminated at the start of June 2015 when the tenant vacated the property.

(b) The property is a single storey end terraced property with gardens to the front and rear. The front door opens onto a central hallway which provides access to all rooms. The property has one bedroom, a living room, a kitchen and a bathroom. The house benefits from gas central heating. There are two cupboards off the hall, one is a large storage cupboard and the other houses the central heating boiler. The property benefits from double glazed windows throughout.

(c) The gas central heating within the property is regularly maintained. A gas safety certificate was issued on 7 July 2015. The central heating system works.

(d) There is no sign of damp within the property nor of excessive moisture. In the living room, there had been condensation staining to the ceiling of the property which the tenant removed before vacating the property.

(e) There are hard wired fire alarms, CO₂ alarms and heat detectors in the property.

(f) There are no defects in the fixtures, fittings or appliances provided by the landlord. There are no defects provided by the landlord.

(g) The property is adequately heated and ventilated. There are no traces of excessive moisture within the property.

(h) The property is well decorated and well maintained throughout. The property fulfils the requirements of Section 14 of the 2006 Act.

Reasons for Decision

12 (a) Committee members inspected this property at 10am on 3 August 2015. It was a clear, dry but overcast summer morning. The tenant had vacated this property in June 2015 and was neither present nor represented. The landlord was present and welcomed Committee members into the property.

(b) Committee members examined the Vokera gas boiler and the gas central heating system. The landlord showed Committee members the thermostat controls attached to the wall in the hallway of the property. The property was in a good state of decoration and well furnished. There were no signs of any form of dampness throughout the property. There was no sign of excess humidity. There was no water staining throughout the property.

(c) Committee members inspected each room of the property. In the living room, the landlord pointed to a pristine area of the ceiling and said that there had been damp staining there which had been removed by the tenant. The landlord confirmed that he has not recently decorated the property.

(d) Committee members saw and inspected mains wired fire alarms, a CO₂ alarm and a heat detector, all of which were fixed to the ceilings in the property.

(e) After the inspection, a hearing took place at Howden Park Centre, Howden, Livingston. The landlord was present but was not represented. The tenant was neither present nor represented. The room set aside for the hearing was not immediately available but, because there was only one issue to be addressed and because the only person who was going to give evidence was the landlord, a brief, informal hearing was held. The landlord produced a gas safety certificate which committee members examined.

(f) Following inspection of the property, Committee members were satisfied that the tenant's complaint was not made out. Committee members had seen a central heating system which is clearly in working order. Committee members were, at the hearing, presented with a gas safety certificate, showing that the central heating system had been tested on 7 July 2015 and there are no defects in it. The property is now occupied by a new tenant. It is clean and tidy, and decorated to a good standard.

(g) Throughout the inspection, Committee members could not find any trace of excess humidity, no stain of damp and no smell of damp. There was no sign of water ingress of any sort within the property.

(h) The tenant's complaint is that the property suffers from excessive moisture, that the heating is so defective the property is cold, and that there are no fire detectors fitted. Committee members' own observations indicate that there is a working gas central heating system, that the property is not "...too cold..." and that the complaint that "...the air stays too wet..." is simply not true.

(i) The production by the landlord of the gas safety certificate resolved any lingering concerns that the Committee could possibly have had about the efficiency of the gas central heating system.

(j) Having inspected the property, Committee members came to the conclusion that it is not surprising that the tenant attempted to withdraw this application on 1 June 2015. Although the tenant has complained about matters which the public interest requires the Committee to investigate, there is no substance to the tenant's complaint. It is manifestly clear to Committee members that this property meets the repairing standard set out in the 2006 Act.

Decision

13 The committee accordingly determined that the landlord has complied with the duty imposed by Section 14(1)(b) of the Act.

14. The decision of the Committee was unanimous.

Right of Appeal

15. 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

16. 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..... **P. Doyle** Date... 24/8/2015
Chairperst