



PRIVATE RENTED HOUSING COMMITTEE

DETERMINATION UNDER SECTION 24 OF THE HOUSING (SCOTLAND) ACT 2006

THE PROPERTY

73A MacGregor Avenue, Stevenston, KA20 4BA, registered in the Land Register for Scotland under title number AYR61916

THE PARTIES

Martin Kroupa, formerly residing at the Property (the Applicant and former Tenant)

(Note: The tenancy under which the application was made, having been lawfully terminated, and a Committee comprising Aileen Devanney, Chairperson and Andrew Taylor, Surveyor Member, having determined to continue with the determination of the application in terms of Minute of Continuation dated 27 May 2015 under Schedule 2 Paragraph 7(3) of the Act, there was no tenant)

and

Ms Elizabeth Roberts and Mr Andrew Reid, residing sometime at 30 McKillop Place, Saltcoats and now at 24, MacGillvary Avenue, Saltcoats, KA21 6BN

18 July 2015

Committee Members – David M Preston (Convener); George Campbell (Surveyor Member) and Liz Dickson (Housing Member)..

Decision

The Committee, having made such enquiries as are fit for the purposes of determining whether the Landlord had complied with the duty imposed by section 14 (1) (b) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act") in relation to the property, and taking account of the representations by both the Landlord and the former Tenant, determined that the Landlord had complied with the said duty.

Background

1. By application dated 8 March 2015, the Applicant sought a determination of whether the Landlords had failed to comply with the duties imposed on them by section 14 (1) (b) of the Act.
2. The applicant alleged that the Landlords had failed to meet the Repairing Standard in respect that the property was inspected by NAC's Development & Strategy Team on 26/02/15 and found to be below the repairing standard.
3. The applicant further alleged a sinking floor in the living room. It was stated in the application that: "the section of floor where floorboards are sagging should be inspected by a professional joiner or carpenter before remedial action is taken in replacing rotted wood and/or strengthening (reinforcing) joists that have been weakened."
4. By Minute of Decision dated 16 March 2015 the President decided to refer the application to a Private Rented Housing Committee
5. On 1 May 2015 the Private Rented Housing Panel (PRHP) was advised in an email from the tenant that he was moving from the property on 4 May. In view of the serious defect alleged in the application and the consequent health and safety implications, the President convened a committee to consider the situation and that committee issued a Minute of Continuation in terms of para 7 (3) of Schedule 2 to the Act.
6. In correspondence between PRHP and the parties subsequent to the application further allegations were made by the tenant in respect of the repairing standard. These allegations were either dealt with satisfactorily by correspondence or were not regarded by the Committee as forming part of the application.

Inspection & Hearing

7. The Committee inspected the property on the morning of 16 July 2015 and thereafter held a hearing in the, Ardrossan Civic Centre, Glasgow Street, Ardrossan. Ms Roberts and her mother, Mrs Margaret Roberts were present throughout the inspection and hearing.
8. The inspection revealed that the property was an upper floor flat in a pre-war ex-council block of four, with garden and parking/driveway. Reference is made to the Schedule of photographs annexed hereto. The Property was unfurnished and the carpets and floor coverings had been removed from the living room.
9. The only evidence of damage to floorboards which was seen by the Committee consisted of a small area where it was clear that flooring had been lifted probably to install central heating pipes. The floorboards had been cut to provide access and it appeared, without intrusive inspection that any supporting dwang affixed to

the nearest adjoining joist was missing or had slipped. There was no evidence of: sinking or sagging floorboards; or any rotten or weakened wood. Reference is made to the Schedule of photographs annexed hereto. In particular the Committee found no serious damage as alleged or suggested in the application.

10. The Committee noted that the two floorboards in question did require attention to ensure that they were be properly supported but it did not consider that such a fault was of sufficient significance to justify a Repairing Standard Enforcement Order. In any event the Committee did not consider the nature of the loose floorboards to be such as to affect adversely the structure of the house and accordingly could not find that the property failed to meet the repairing standard.

Decision

11. Having carefully considered all the representations made in the correspondence and by Ms Roberts and the documentation provided, the Committee was entirely satisfied that the property met the repairing standard. The Committee regarded the application as amounting to a vindictive action on the part of the former tenant and without any proper foundation.
12. The Committee accordingly determined that the landlords had not failed to meet the duties imposed by section 14 (1) (b) of the Act.

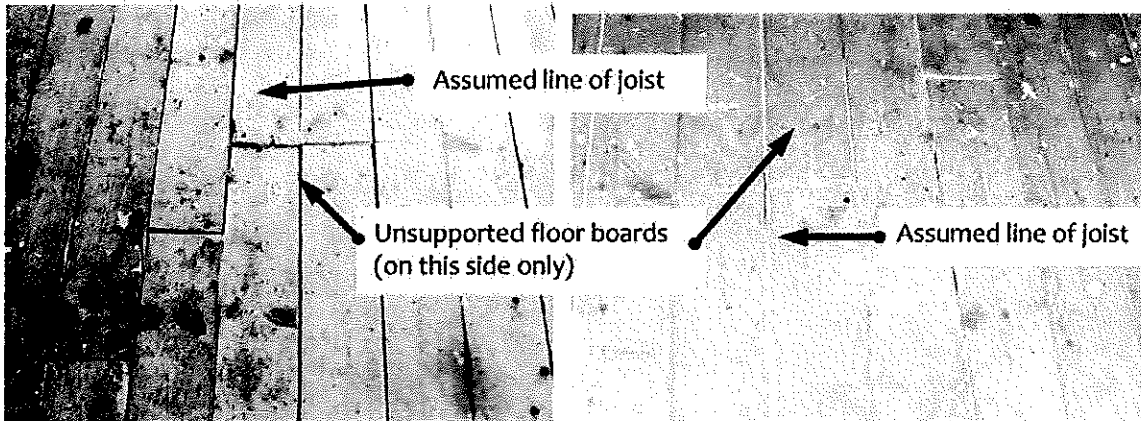
Chairperson.. **D. Preston**
Private Rented Housing Committee

18-7-15
Date

Schedule of Photographs taken at 73A McGregor Avenue, Stevenston KA20 4BA on 16 July 2015



01 - House - front elevation (upper right)



02 - Living room floor boards (looking south) 03 - Living room floor boards (looking north)