

Ref PRHP/RP/15/0108

Private Rented Housing Committee

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

Re: 101 Gullion Park, East Kilbride, South Lanarkshire G74 4FD (“the Property”)

Title Number: LAN187005

The Parties:-

LORNA BREEZE, formerly residing at 101 Gullion Park, East Kilbride, South Lanarkshire G74 4FD (“the former Tenant”)

JAMES GARDINER, c/o Bensons Residential Lettings, 4 Stuart Street, Village, East Kilbride G74 4NG (“the Landlord”)

Committee members:-

Richard Mill (Chairman) and Kingsley Bruce (Surveyor Member)

Decision

The committee, having made enquiries 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, determined that the Landlord has not failed to comply with their duty in respect that the Property does meet the Repairing Standard.

Background

1. By application dated 24 March 2015, the former Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act in respect of the Property.

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Background

1. By application dated 24 March 2015, the former Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act in respect of the Property.

2. In the application the former Tenant stated that the Landlord had failed to comply with their duty to ensure that the house meets the Repairing Standard in specific respects. The relevant aspects of the Repairing Standard put at issue are those contained within Sections 13(1)(a) and (c) which are in the following terms:-
 - whether the house is wind and watertight and in all other respects reasonably fit for human habitation.
 - whether 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.
3. The principal complaint of the former Tenant related to dampness throughout the property, particularly in the bedrooms, and the ingress of water. It was suggested that no up-to-date gas safety check had been carried out and that the Gas Safety Certificate for the property had expired in November 2014.
4. Some time after lodging the application, the Tenant vacated the Property and the tenancy of the property was lawfully terminated. The President then considered the application and whether it should be determined or abandoned. Given the nature of the complaints within the application, the president considered that the application should be determined on health and safety grounds. A Minute of Continuation was issued dated 7 July 2015.
5. A Notice of Referral was issued to the Landlord on 9 July 2015. No representations were received from the Landlord nor their agent.

Inspection

6. The committee inspected the Property on 21 August 2015 at 10.00 am. The Landlord's agent attended and directed the committee members around the Property.

Hearing

7. Following the inspection of the Property the committee convened a Hearing at 11.00 am on 21 August 2015 at Europa Building, 450 Argyle Street, Glasgow. There was no attendance by either party to the application at the Hearing.

Summary of the issues

8. The issues to be determined by the committee are whether or not the Property meets the Repairing Standard to the extent put at issue within the application, as at the date of the Hearing. The focus of the committee's investigations were in respect of the alleged dampness within the Property, any water leaks, and the safety of gas appliances.

Findings in Fact

9. The committee makes the following findings in fact:

- 9.1 The title to the subjects known as 101 Gullion Park, East Kilbride, South Lanarkshire G74 4FD is held by the Landlord. Their interest is registered in the Land Register of Scotland under title number LAN187005 on 13 February 2006.
- 9.2 The Property which is the subject of this application is a top floor two bed roomed flat within a modern housing development.
- 9.3 The parties entered into a Short Assured Tenancy on 22 August 2013 and the former Tenant took up occupation of the Property on or about 24 August 2013.
- 9.4 In relation to the matters complained of in the application, the committee's inspection revealed:-
- i. The condition of the property generally is of a reasonable standard.
 - ii. There was no evidence of ongoing dampness within the property.
 - iii. There was evidence of slight mould growth around window frames, particularly in the main bedroom which has the ensuite attached, indicative of slight condensation, typically caused by lack of ventilation. It was noted that the trickle vents were unopened.
 - iv. There was evidence of a former ingress of water through the ceiling around the area of the main bedroom and ensuite. There was no evidence of any ongoing water leaks.
- 9.5 The Landlord's agent directing the committee around the property advised that there had been water leaking into the property previously. This had been occasioned by a leaking skylight in the roof of the property. This had been remedied. To their knowledge there were no ongoing leaks. Remedial work had been carried out to rectify the consequences of the former leak. This had included re-decoration.
- 9.6 There was no Gas Safety Certificate nor copy thereof within the Property itself. An up-to-date Gas Safety Certificate dated 22 January 2015 was emailed subsequent to the inspection for consideration by the committee.

Reasons for the Decision

10. The committee determined the Application having regard to the papers provided and the findings of their inspection.
11. The committee were only able to consider the former Tenant's complaints which formed part of the intimated application. The

committee were also under an obligation to consider the former Tenant's complaints as at the time of the Hearing on 21 August 2015.

12. The committee was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the application.
13. The committee's findings as established at the time of their inspection formed the principal body of evidence and foundation for the committee's findings and was the principal basis of their decision.
14. The committee was satisfied on the basis of the evidence available that the Landlord has not breached the Repairing Standard. There are no aspects of the Property, at the time of committee's inspection, which caused alarm or a health and safety issue. There was no evidence available to support the concerns raised by the former Tenant.

Decision

15. The Property does meet the Repairing Standard. The Landlord has complied with their duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is not necessary.

Right of Appeal

16. 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 of the Act

17. Where such an appeal is made, the effect of the decision and of any order made, 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 date on which the appeal is abandoned or so determined.

A
R. Mill

Signed
Chairman

Date 31 August 2015