



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

prhp Ref: PRHP/RP/15/0109

Re : Property at 44 Baylands Crescent, Peterhead, Aberdeenshire, AB42 2YB ("the Property")

The Parties:-

MISS JENNA MARIE STUART, residing formerly at 44 Baylands Crescent, Peterhead, Aberdeenshire, AB42 2YB ("the Tenant").

MR JOHN MCNEILL, residing at 13 Laburnum Grove, Peterhead, Aberdeenshire, ("the Landlord").

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) in relation to the Property, determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 23 March 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 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 house is wind and watertight and in all other respects reasonably fit for human habitation;
 - (b) The structure of and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
 - (c) 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;
 - (d) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. By letter dated 21 April 2015 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.

5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than her original application. The Landlord made no written representations to the Committee. Prior to the date of inspection it transpired that the Tenant had left the Property. The Committee exercised its discretion under Schedule 2 Paragraph 7 of the Act and elected to continue to determine the application.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member, Mr D Godfrey, Surveyor Member and Mrs L Robertson, Housing Member) inspected the Property on the morning of 17 June 2015. The Tenant was not present. The Landlord was present during the inspection.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Palace Hotel, Peterhead. The Tenant was not present nor represented. The Landlord attended briefly to provide the Committee with a copy of a Minor Electrical Installation Works Certificate .
8. The Tenant's submission was that the Property did not meet the repairing standard. The Tenant's application indicated that the Landlord had carried out an extensive conversion of the upper floor whilst she had been in occupation of the Property (with her agreement). However, the Tenant alleged that various works to the Property remained to be completed including painting due to water damage, cracks in the walls, plug sockets to be repaired, mould staining in the bathroom to be treated as well as the oven needing repaired.
9. The Landlord submitted that the Tenant had both requested and agreed to him carrying out the conversion works with her *in situ*. The vast majority of the works had been carried out without difficulty. There had been some minor works required to complete the conversion. The Landlord acknowledged that there had been some water penetration due to the roof works he had been carrying out. He had been trying to gain access to the Property from the Tenant for some time in order to complete these works. He submitted that had access been provided he would have completed the works that had remained outstanding.

Summary of the issues

10. The issues to be determined were:-
 - 10.1 whether the electrical system within the Property was in proper working order.
 - 10.2 whether there were painting works required to make good previous water damage.
 - 10.3 whether there were cracks in the walls that required to be repaired.
 - 10.4 whether the upstairs toilet was in proper working order.
 - 10.5 whether the upstairs shower was leaking through the floor and into the downstairs.
 - 10.6 whether the oven was working properly.

Findings of fact

11. The Committee found the following facts to be established:-
 - The electrical system within the Property appeared to be safe and in proper working order.
 - The Property had been painted and generally met with repairing standard.
 - There were no cracks in the walls.

- The upstairs toilet and shower appeared to be in proper working order.
- The electricity was switched off in the Property but there was nothing to suggest that the oven was not working correctly.
- Generally the Property was in good decorative order and met the repairing standard.

Reasons for the decision

12. The Committee based its decision primarily on the evidence obtained during the course of the inspection. The Committee inspected all rooms in the Property. The Property was a converted bungalow with three upstairs bedrooms. The work had been carried out to a good standard and the Property was a modern attractive property in a quiet residential area. The Landlord advised that upon gaining access to the Property he had carried out a number of works including repainting the Property and re-carpeting some areas of it. A couple of carpets still required to be replaced but this was in hand. There were no cracks or holes in the walls as alleged. The electricity in the Property was disconnected at the point of the inspection but the Landlord submitted that the cooker was in proper working order and that in any event he would need to ensure that this was the case if he was to re-let it. The Committee did not doubt the Landlord in this regard. The Landlord produced an Minor Electrical Installation Works Certificate in relation to the electrical works carried out by him in the Property. The Committee also noted that the Property had a hard-wired smoke detection system that was interlinked and that there was also a heat detector in the kitchen, compliant with the most current regulations.

Overall, whilst the Landlord still had some minor works to complete in the Property, the Committee was readily satisfied the Property was in good order and repair and would be in a high standard when re-let by the Landlord.

The Committee had no reason to doubt any of the information provided by the Landlord.

The Committee was satisfied that the Property met the repairing standard and that no further action was required.

Decision

- 13. The Committee accordingly determined that the Landlord had not failed to comply 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.

E. MILLER

Signed .
Chairperson

..... Date..... 20/6/15.....