



Determination by Private Rented Housing Committee

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

Re: 161 Ballochney Street, Airdrie, ML6 0LX being the subjects registered in the land Register of Scotland under Title Number LAN25835 ('the Property')

The Parties:-

Miss Lynne Gracie residing at 161 Ballochney Street, Airdrie, ML6 0LX ('The Tenant')

Mohammed Aslam residing at 10 Dumbreck Avenue, Glasgow, G41 5HR ('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 has NOT failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 28th April 2015 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord has 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 she considered that the Landlord has failed to comply with their duty to ensure that the Property meets the repairing standard. She advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation and the structure and exterior of the property (including drains, gutters and external pipes) are not in a reasonable state of repair and proper working order.

In particular the application stated that:-

'Since we moved into the property the actual owner of the property has always been reluctant to do repairs. We have reported the back porch on several occasions. It is leaking and has dampness. He refuses to repair it. He now wants to throw us out and allegedly repair once we are out. Please note that I have a three month old baby.

Back porch needs repaired or knocked down.

Gutters are leaking and broken.

Down pipes are corroded and leaking.'

3. The President of the Private Rented Housing Panel, having considered the application, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee.

4. The Committee members were Jacqui Taylor (Chairperson) and Sara Hesp (Surveyor Member) and Mary Lyden (Housing Member).

5. 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, dated 3rd July 2015.

6. The Committee attended at the Property on 11th August 2015. The Property is a corner mid terraced villa with roughcast external walls and a tiled roof. The accommodation comprises hallway, lounge, kitchen, 3 bedrooms, bathroom and rear porch. The Property has gas central heating and double glazing. There is a driveway to the front of the Property and enclosed gardens to the rear. The weather was bright with high cloud.

The Tenant was present at the inspection. The Landlord was not present and was not represented.

The Committee inspected the alleged defects and found as follows:-

6.1 Back porch needs repaired or knocked down.

The Tenant explained that the Landlord had recently repaired the porch, double glazed windows had been installed and the roof and gutters had been repaired. There had recently been heavy rain and the Committee found no evidence of dampness in the porch at the inspection. They noted that some cosmetic finishing works were required to the ceiling.

6.2 Gutters are leaking and broken.

There was no evidence of the gutters being broken or leaking at the inspection.

6.3 Down pipes are corroded and leaking

The Tenant explained that the corroded downpipe had been repaired by the Landlord recently. The Committee observed that the downpipes appeared to be in proper working order.

The Committee also observed that there were smoke alarms in the lounge, downstairs hall and upper hall. They were not interlinked and there was no heat alarm in the kitchen.

Photographs were taken during the inspection and are attached as a Schedule to this report.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Airdrie Business Centre, Ante Room, Chapel Street, Airdrie, ML6 6GX. The Tenant was present at the inspection. The Landlord was not present and was not represented.

The Tenant advised the Committee that the roof and windows of the porch had been repaired and the porch was no longer leaking. The Landlord had arranged to replace the carpet in the porch but she had been unable to provide access. A new date had still to be arranged. The Landlord had repaired the gutters and downpipes.

During the hearing the Committee were advised that the Landlord had arrived at the PRHP office in Glasgow expecting the hearing to be held there. The Committee adjourned the hearing and the chairperson spoke to the Landlord on the phone. She explained that the Committee had inspected the Property and whilst the hearing had still to be completed they did not intend to make a Repairing Standard Enforcement Order in relation to the alleged defects detailed in the Tenant's application. He advised that if no order was made he did not require an opportunity to make representations to the Committee.

The Committee recommenced the hearing and advised the Tenant of the telephone conversation the chairperson had had with the Landlord. She advised the Tenant that they did not intend to make a Repairing Standard Enforcement Order in relation to the alleged defects

detailed in the Tenant's application. The Tenant advised that she did not wish to make any further representations to the Committee.

8. Summary of the issues.

The issues to be determined are:-

8.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

Whether the back porch is wind and water tight and reasonably fit for human habitation.

8.2 The structure and exterior of the Property (including drains, gutters and external pipes) were not in a reasonable state of repair and in proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

Whether the condition of the back porch, gutters and downpipes are a reasonable state of repair and in proper working order.

9. Findings of fact.

9.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

The Committee found that the back porch is wind and water tight and reasonably fit for human habitation.

9.2 The structure and exterior of the Property (including drains, gutters and external pipes) were not in a reasonable state of repair and in proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

The Committee found that the back porch, gutters and downpipes are in a reasonable state of repair and in proper working order. They acknowledged that some finishing works were required to the porch ceiling but determined that these outstanding works did not result in the porch ceiling not being in a reasonable state of repair.

10. Decision

The Committee accordingly determined that the Landlord had NOT failed to comply with the duties imposed by Sections 13 (1)(a) and 13(1)(b) of the Act, as stated.

11. The decision of the Committee was unanimous.

12. The condition of the smoke alarms was not part of the application however the Landlord is advised that the smoke alarms are required to be interlinked and there should also be a heat alarm installed in the kitchen.

13. Right of Appeal

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

14. 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 TAYLOR

Signed
Chairperson

..... Date 17th August 2015



Schedule of photographs taken during the inspection of 161 Ballochney Street, Airdrie by the Private Rented Housing Committee on 11 August 2015



Front elevation



Rear Porch



Rear Porch - ceiling



Schedule of photographs taken during the inspection of 161 Ballochney Street, Airdrie by the Private Rented Housing Committee on 11 August 2015



Rear Porch - ceiling



Rear porch - carpet



Rear porch - roof