



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**

In connection with

**Property at 18 Commercial Street, Markinch, Fife KY7 6DE (hereinafter
referred to as “the House”)**

**Helen Davidson, formerly of 18 Commercial Street, Markinch, Fife KY7
6DE (hereinafter referred to as “the Tenant”)**

**Paul and Lyndsey Hendrick, 21 Jackson Road, Kenilworth CV8 2TG
(hereinafter referred to as “the Landlord”)**

PRHP REFERENCE PRHP/RP/15/0148

DECISION

The Committee, having made such enquiries as are 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 (hereinafter referred to as “the Act”) in relation to the House, and taking account of the evidence led on behalf of the Landlord and of the written documentation attached to the application and submitted by the parties, determined that the Landlord had not failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application dated 4 May 2015 (hereinafter referred to as “the Application”) the Tenant applied to the Private Rented Housing Panel (hereinafter “the PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing

standard and, in particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

“(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,...

(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.”

The Tenant complained of the following defects in the House: inadequate fire detection provision; the oven and grill not working; and the presence of an electrical socket within a wardrobe.

By letter of 22 July 2015, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

The Committee comprised the following members:

John McHugh, Chairperson
Ian Murning, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

The Committee inspected the House on 2 September 2015. The Landlord’s letting agent, Caroline Smith, was in attendance. The Tenant was neither present nor represented, having recently vacated the House.

Following the inspection, the Committee held a hearing at the Lomond Centre, Glenrothes. The Committee considered the written evidence submitted by the parties. The Landlord was neither present nor represented. The Tenant was neither present nor represented.

Submissions at the Hearing

No parties were present. The Landlord’s agent made brief representations at the inspection to the effect that the Landlord had dealt promptly with any matters of repair brought to their attention and that they considered that the House was in good condition.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

Findings in Fact

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

The Landlord and the Tenant entered into a Tenancy Agreement in respect of the House on or around 14 June 2014.

The Landlord was recorded on the Lease as Paul and Lyndsey Hendrick.

Paul Robert Hendrick and Lyndsey Claire Hendrick are the registered owners of the House.

The Tenant occupied the House from 14 June 2014 until on or around August 2015.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defects in the House which are now the subject of the Application by recorded delivery letters issued by the local authority dated 11 September 2014 and 15 April 2015 and by her representative dated 4 and 15 June 2015.

The inspection on 2 September 2015 revealed:

The property is in good general condition.

A new cooker and grill had been installed and these appeared to be in working order.

Mains powered smoke and heat detectors had been installed in the House in the kitchen, lower hall, living room and upper hall.

An electrical socket is present in the wall of the bedroom which faces away from Commercial St. A wardrobe has been constructed in front of the section of wall where the socket is located.

A schedule of photographs taken at the inspection is attached as an appendix to this Decision.

Reasons for the Decision

Appropriate fire detection measures are in place with new, hard wired alarms having been installed in the upper and lower halls, the kitchen and the living room.

A new, working oven and grill have been installed.

The electrical socket in the wardrobe is, apparently, a normally installed socket located within an internal wall of the House. A wardrobe structure has been installed in front of the wall containing the socket at some later point. The socket may still be accessed by opening the wardrobe doors. There was no evidence of any problem with the socket or any risk associated with the presence of the wardrobe.

Decision

The Committee, considering the terms of section 13(3) of the Act, determined that the Landlord had not failed to comply with the duty imposed by section 14(1)(b) of the Act.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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. McHugh

John McHugh
Chairperson

Date: 10 September 2015









