



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 24/01, Dunlop Street, Strathaven, ML10 6LA (“the House”)

Ms Susan Anne Stuart, formerly residing at the Property (“the Tenant”)

**Mr Struan Brownlie, 71 Gatehead Crescent, Dungavel, Bishopston, PA7 5QP
 (“the Landlord”)**

PRHP REFERENCE PRHP/RP/15/0173

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 (“the Act”) in relation to the House, and having taken account of the evidence led at the hearing and of the written documentation attached to the application and submitted by the parties, has made the following decision:

It has determined that the Landlord has not failed to comply with the duty imposed by section 14(1)(b) of the Act.

The decision was unanimous.

Background

By application dated 3 June 2015 (the “Application”) the Tenant applied to the Private Rented Housing Panel (“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 Landlords 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; and
(d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order...”*

The Tenant complained that the state of the House was such that flooding had been caused in the hallway which had damaged the flooring at that location, there was no hot water in the bathroom, the washing machine did not work and the door entry phone system did not function properly.

By email dated 19 August 2015, the Tenant informed PRHP that she was about to vacate the House. The Tenant’s application was therefore deemed to be withdrawn in terms of Schedule 7 to the Act. By Minute of Continuation dated 4 September, the Chairman acting under delegated powers continued the application in the public interest. By Minute of Decision of the same date, the Chairman acting as Convenor with delegated powers decided 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:

Maurice O’Carroll, Chairperson
Ian Mowatt, Surveyor Member

The Committee inspected the House at 10.40am on 5 November 2015. A new tenant, Michael Steele, was present at the inspection. The Landlord was also present along with Ms Diane Paterson from his new letting agents, The Property Store.

Following the inspection, the Committee held a hearing at Ballgreen Hall, 34 Glasgow Road, Strathaven. The Landlord attended the hearing alone and gave evidence. The Tenant was not present at the hearing. The Committee considered the written evidence submitted by the parties and the representations from the Landlord.

Submissions at the Hearing

At the hearing, the Landlord gave evidence that he used to live in the House until approximately two years prior to the hearing and had started letting it out approximately one year ago. In the interim between the complaint being received and the inspection, he had attempted to cause repairs to be carried out on three occasions but the Tenant had refused entry. In addition, since the date of the application, new letting agents had been employed by the Landlord as he was not satisfied with the service provided by his previous agents.

The Landlord confirmed certain matters which had been visible during the inspection, namely that considerable refurbishment work had been carried out about three months prior to the inspection. In particular a new door entry system had been installed and new flooring had been placed in the hallway and kitchen in the house.

In addition, he confirmed that the hot water issue in the bathroom had been resolved and a hard wired smoke detector had been installed in the hallway and living room which were interlinked and connected to a heat detector in the kitchen. He also confirmed that a Gas Safety Certificate had been obtained and that a carbon monoxide monitor was to be installed.

Evidently, the engineer who had installed the door entry system had not completed the works properly as the buzzer did not sound when pressed from the outside. He was to chase this matter up following the hearing and to provide evidence of having done so.

Summary of the Issue

The issue to be determined is whether (a) the House meets the repairing standard as laid down in section 13(1)(a) of the Act, namely that the House the installations, fittings, fixtures and appliances were in proper working order and therefore (b) whether the Landlord has complied with the duty imposed by section 14 (1)(b).

Findings in Fact

The Committee made the following findings in fact:

The Landlord and the Tenant entered into a Tenancy agreement in respect of the House on 27 November 2014 for a short assured tenancy of six months at which point the Tenant took entry. The lease continued by operation of tacit relocation until August 2015 as noted above.

The Landlord was recorded on the Lease as being Mr Struan Brownlie and the lease was signed on his behalf by his then letting agent.

The registered owner of the House is Mr Struan Brownlie as designated above under Title Number LAN132680.

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 on or around the same time as the Application was lodged with PRHP.

The inspection on 5 November 2015 revealed:

The property is a ground floor flat within a modern block of 4 flats with 2 flats per floor in a 2 storey block.

The House is a one bedroom flat consisting of a hallway, giving onto a living room to the right on entry. Also off the hall is the bathroom with bath, WC and shower with the kitchen at the other end of the hallway and bedroom to the left. The living room is the only room which faces onto the street.

The House is a well-tended rental property with modern appliances and good quality furnishings. There were interlinked mains smoke detectors in both the hallway and living room which were also inter-connected with a heat sensor in the kitchen. The Committee confirmed the following on inspection and confirmed the latter point from the new tenant:

1. The flooring in the hall and kitchen had been replaced with modern laminate.
2. The taps in the bathroom had been repaired with both hot and cold water taps functioning properly.
3. The main door into the common stairwell operated correctly and could be locked satisfactorily.
4. The washing machine in the kitchen was in proper working order.

There was also a new door entry system which worked in all respects except that the buzzer did not sound when pressed from the outside.

Photographs of the House were taken at the time of the inspection and are attached for the sake of completeness.

Decision of the Committee and reasons

The Committee noted all of the above works as having been carried out and the steps which the Landlord had taken to address the complaints made by the Tenant as contained within the Application.

It noted that all of the complaints had been resolved with the exception of the door entry system. It was of the view that this was technically in breach of section 13(1)(d) in relation to the Repairing Standard.

However, prior to the present report being issued, the Landlord provided satisfactory evidence to the Committee that this issue had been rectified. That evidence consisted of an email from the Landlord copying a report from the engineer who had been called to the House on 13 November 2015 to complete the work first carried out some three months prior to the inspection.

The Job Status Report from WSS Group Ltd confirmed the instructions received to fix the door entry handset on 5 November 2015. It also contained a statement from the engineer from WSS dated 13 November 2015 that a defective wire had been replaced and the unit retested. The Committee was also provided with a copy email from the present tenant dated 18 November 2015 confirming that the door entry system was now functioning fully.

In the light of the evidence so produced, the Committee decided that it was not necessary to issue a Repairing Standard Enforcement Order in respect of the previously defective door entry system in terms of section 24(2) of the Act.

Accordingly, 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.

M. MCCARROLL

Maurice O'Carroll
Chairperson

Date: 24 November 2015