



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

Ref: PRHP/RP/15/0175

Re property at: the flatted property at Flat G/L 0/1, 34 Garry Street, Glasgow, G44 4AU, being the subjects registered in the Land Register of Scotland under Title Number GLA83595 ("the Property")

The Parties:-

Mr Charles Cumming, residing at Flat G/L 0/1, 34 Garry Street, Glasgow, G44 4AU ("the Tenant")

And

James Laird (Goldbeaters) Limited, a Company incorporate under the Companies Act having their place of business at 13 Craig Road, Glasgow ("the Landlord")

Decision

The Private Rented Housing Committee ("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) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property concerned and, taking account of the evidence led by both the Landlord and the Tenant in writing and at the hearing, determined that the Landlord has not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Committee

The Committee consisted of:-

Mr Andrew Cowan –	Chairperson
Mr Ian Mowatt –	Surveyor Member
Mr Ahsan Khan –	Housing Member

Background

1. By an application dated 6 May 2015, the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Act.

2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with their duty to ensure that the property met the repairing standard.
3. The Tenant detailed in his application the issues which he believed the Landlord required to repair in order to bring the property up to the repairing standard. The summary of the alleged breaches of the repairing standard are:-
 - (a) the Tenant complained that the main front door and the internal door within the property were not appropriate "fire doors" and constituted a serious fire hazard;
 - (b) the Tenant complained that the windows within the property are not fitted with air vents;
 - (c) the Tenant complained that he had not had sight of a current gas safety certificate in respect of the property;
 - (d) the Tenant complained that combustible material had been dumped on the external communal pathway at the rear of the property which was directly below the bedroom window of the property. The Tenant was concerned that this material constituted a serious fire hazard; and
 - (e) the Tenant complained that the mortice lock on the front door of the property was not aligned properly and that, as a consequence, the door could jam when it was being opened.
4. The Tenant exhibited evidence to the Committee that all of his complaints had been intimated to the Landlord.
5. The Committee served a notice of referral, inspection and hearing upon the Landlord and the Tenant by letter dated 3 August 2015. By correspondence dated 4 August 2015, the Tenant lodged further detail of his complaints. By correspondence received by the Committee on 6 August 2015, the Landlord lodged written representations in relation to the Tenants complaints and at the same time lodged a gas safety record in respect of the property dated 6 February 2015.
6. The Landlord and the Tenant were advised that the Committee intended to inspect the property on 10 September 2015 and that a hearing would thereafter be held at 11.30am in the Europa Building, 450 Argyle Street, Glasgow, G2 8LH.

7. The Committee proceeded with the inspection on the 10 September 2015. The inspection was attended by all members of the Committee. The Landlord was represented by Mr Stephen Mitchell and Mr Kenneth Laird. The Tenant was also in attendance at the inspection.

The inspection

8. Photographs were taken during the inspection by the Committee. Copies of the photographs taken by the Committee are attached as a schedule to this report.
9. The property is a ground floor tenement flat consisting of a living room/kitchen area, bathroom and bedroom.
10. At the inspection the Committee noted the following points:-
 - (a) that all the doors within the property, including the front door were of a standard type and there were no particular difficulties with how they operated.
 - (b) that all of the windows within the property were double glazed units. All of the windows were capable of being opened. One of the windows in the lounge of the property could not be locked in an open position and could, accordingly, be a security issue.
 - (c) that at the rear of the property there was no combustible material located adjacent to the window of the Tenant's property.
 - (d) the Committee operated the front door mortice lock from both inside the property and outside the property, and could find no difficulty with opening or closing the front door and could find no evidence of any particular issues regarding the jamming of that door.

Hearing

11. The hearing was attended by:-
 - (i) the Tenant, Mr Charles Cumming;
 - (ii) the Landlord's Managing Director, Mr Kenneth Laird; and
 - (iii) the Landlord's Company Secretary, Mr Stephen Mitchell;
12. At the hearing the Chairperson explained the procedure to be followed at the hearing and further explained the extent of the Committee's jurisdiction.

13. The Committee then discussed each of the Tenant's complaints, together with the Committee's own observations from their inspection of the property and invited parties to comment upon each of those issues;-

(a) in relation to the Tenant's complaints that fire doors were not fitted within the property, the Committee explained to the Tenant that there were no specific building regulations which required a specific type of fire door to be fitted within a property of this type. The Committee explained that there may be regulations which apply to new build properties or properties which are let out as houses in multiple occupation, but neither of those situations apply to this property. The Committee were satisfied that the doors supplied by the Landlord were in working order. The Tenant was not able to provide the Committee with any further authority as to why "fire doors" of the type suggested by the Tenant in his application, should be fitted within the property. The Committee accordingly determined that there was no evidence of any failure of the repairing standard in relation to the front door or the internal doors fitted within the property;

(b) In relation to the Tenant's complaint that air vents were not fitted within the double glazed units within the property, the Committee highlighted to the Tenant that there were no specific regulations that such air vents were required within a property of this type. The Committee accepted that there was a requirement that the property should be capable of being adequately aired. In this respect the Committee had noted that all of the windows within the property were capable of being opened and the Committee could find no evidence of a failure of the repairing standard in relation to this matter. The Tenant was invited to address the Committee further on this point, but no further evidence was given of any failure of the repairing standard in relation to this matter.

The Committee determined that there was no failure of the repairing standard in relation to this aspect of the Tenant's application.

The Committee did note that one of the windows in the living room of the property could not be "locked" in an open position and, accordingly, might pose a security risk particularly given that the property is on the ground floor of the tenement. This was not, however, a specific complaint which the Tenant had raised in his application. Notwithstanding this the Landlord indicated at the hearing that he would take the necessary steps to carry out remedial work to the window concerned to address this issue;

- (c) The Committee noted that following the submission of the application by the Tenant to the Private Rented Housing Panel, the Landlord had lodged with the Committee a gas safety record dated 6 February 2015. That record recorded that the gas safety appliances within the property were satisfactory. The Tenant accepted this to be the position. The Committee accordingly indicated that there was no failure of the repairing standard in respect of this matter;
- (d) The Committee noted that, at the time of their inspection, there was no combustible material stored on the common external pathway directly below the Tenant's bedroom window. The Tenant had complained that, in the past, third parties had dumped combustible material directly below this window in this common area and that, accordingly, there was a fire risk to the Tenant. The Committee noted that the Landlord had made attempts to ensure that no further dumping of unsuitable material in this common area was carried out, but at the same time noted that this was a common area and was not an area over which the Landlord had direct control. In any case, the Committee had noted that, at the time of their inspection, the materials of which the Tenant had complained of had been removed from the site. The Committee accordingly indicated to the Tenant that they could find no evidence of any continuing failure of the repairing standard in relation to this matter. The Tenant was invited to comment on this further, but was not able to provide any evidence of any current failure of the repairing standard in relation to this matter. The Committee accordingly found that there was no evidence that there is a failure of the repairing standard in relation to this matter.
- (e) In relation to the Tenant's complaint that the mortice lock at the front door did not operate correctly and could cause the front door to jam, the Committee highlighted to the Tenant that they had found no fault with the mortice lock at the time of their inspection. The Tenant was not able to provide any further evidence in relation to that particular complaint. The Landlord had highlighted in his written representations to the Committee that a repair to the lock had been carried out in January 2015. The Committee accordingly found that there was no evidence that there is a failure of the repairing standard in relation to this matter.

Decision

14. Having inspected the property and having considered the written representations made by the parties together with the further representations made by the parties at the hearing, the Committee accordingly determined that there was no evidence of any current failure by the

Landlord to maintain the property at the repairing standard. The Committee therefore determined that the Landlord has not failed to comply with the duties imposed by Section 14(1)(b) of the Act.

15. The decision of the Committee was unanimous.

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

17. 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.

A. Cowan

Sig.....
Andrew Cowan Chairperson

Date.....

17/9/15

L. McManus

.....Witness

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA

Schedule

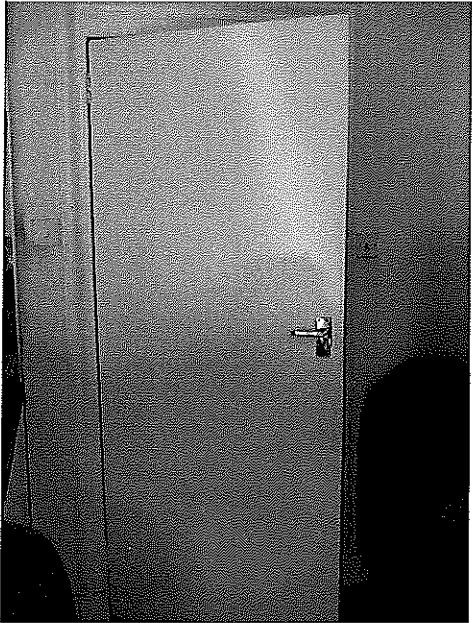


Figure 1 Kitchen Internal Door



Figure 2 Locks to External Door



Figure 3 Double Glazed Window



Figure 4 Railings at Rear of Building