



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

Reference Number: PRHP/RP/15/0181

Re: Property at 73D Charlotte Street, Aberdeen, AB25 1LY all as more particularly described in and registered in Land Certificate ABN110901 (hereinafter referred to as “the property”).

The Parties:-

Mrs Ashley Benamara (“the Tenant”)

AMD Property (Aberdeen) Limited, having its registered office at Johnstone House, 52-54 Rose Street, Aberdeen, AB10 1HA (“the Landlord”)

Decision

The Committee, having made such enquiries as it saw fit for the purpose 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 submitted by both the Landlord and the Tenant, determined that the Landlord has complied with the duty imposed by Section 14 (1) (b) of the Act.

The Committee consisted of:-

Patricia Anne Pryce	-	Chairperson
Mark Andrew	-	Surveyor Member
Helen Barclay	-	Housing Member

Background

1. By application comprising of all documents received in the period 11 June to 23 June, both 2015, from the Tenant, the Tenant applied to the Private Rented Housing Panel (PRHP) 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 his duty to ensure that the property meets the repairing standard and the Tenant brought forward the following breaches:-

That cupboards are hanging or missing in a number of rooms.

That there is an excessive amount of mould in the bathroom on the roof.

That the roof lighting is fused and cannot work.

That the heaters are broken and unable to lower or rise heat.

That the oven cannot heat food properly.

That the drawers in the bedroom have fallen apart.

The Tenant considers that the Landlord is in breach of his duties under the Housing (Scotland) Act 2006 in relation to the repairing standard and in particular the Landlord has failed to ensure:-

- (i) 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.
- (ii) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
- (iii) Any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed.

3. By Minute dated 10 August 2015 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 23(1) of the Act to a Private Rented Housing Committee.

4. Having received notification from the Tenant that she had vacated the property and therefore was to be treated as having withdrawn her application, by Minute of Continuation to a Determination dated 4 October 2015, being a decision under Schedule 2, Paragraph 7(3) of the Housing (Scotland) Act 2006, the Committee decided that the application should be determined on public interest grounds due to the nature of the complaints relating to excessive mould in the bathroom, the roof lighting being fused and not working, the heaters being broken and the oven being unable to cook food properly, all of which could raise health and safety issues for the occupants.

The Inspection

5. On 9 October 2015, the Committee attended at the property for the purposes of inspection of the property. The Landlord did not attend the inspection but her representative, Miss Joanna Linda Lang of Messrs Ledingham Chalmers, Solicitors, did attend at the property for the inspection.

At the inspection on 9 October 2015, the Committee noted the following points:-

- (a) The property comprises a first floor three apartment flatted dwelling house within a traditional grey granite tenement building approximately 125 years of age.
- (b) The property comprises a hallway, an open plan living/kitchen, two bedrooms, and a bathroom.
- (c) There were Dimplex storage heaters located in both bedrooms and in the living room.
- (d) There was a new cooker and oven installed in the kitchen area and the oven was switched on by the Committee and heated up quickly and adequately.
- (e) There was no mould in the bathroom and there was an extractor fan located in the bathroom.
- (f) The lighting located on the ceiling of the property was switched on and off by the Committee and was in full working order.
- (g) The drawers located in the bedrooms were in excellent condition and fully functioning.
- (h) The cupboards throughout the property were in excellent condition and working order.
- (i) The property was decorated and finished to a high standard.

The Hearing

6. The Landlord's representative, Miss Lang, attended the hearing. No one else attended the hearing. Miss Lang confirmed that she was representing the Landlord at the hearing. She advised that she worked as a solicitor within the Litigation Department of Messrs Ledingham Chalmers, Solicitors, Johnstone House, 52-54 Rose Street, Aberdeen, AB10 1HA.

Miss Lang confirmed that the action for eviction which the Landlord had raised at Aberdeen Sheriff Court had been dismissed.

Miss Lang advised the Committee that the damage complained of by the Tenant in her present application had in fact been caused by the Tenant. Miss Lang showed the Committee photographs which had been taken both before the commencement of the Tenant's tenancy and after the termination of the tenancy. The photographs demonstrated that the condition of the property had apparently worsened during the course of the Tenant's tenancy. Miss Lang confirmed that the Landlord had redecorated the property throughout together with replacing all of the drawers in the bedroom, installing a new

cooker and oven together with a new fridge. She advised that the Landlord had to replace the cooker as it had been left so dirty by the Tenant.

Discussion on the Evidence

7. The Committee noted that Miss Lang had given her evidence honestly and without exaggeration. The property appeared to the Committee to be furnished and decorated to a high standard. The Committee is satisfied that on the evidence the Landlord has met the repairing standard in respect of matters properly raised within the present application.

The Landlord provided a report by John R. Ewan (Aberdeen) Ltd, SELECT registered electrician, which confirmed that the Dimplex heaters located in the property are in working order.

Given all of the circumstances, the Committee was satisfied that 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, that the fixtures, fittings and appliances provided by the Landlord under the tenancy agreement are in a reasonable state of repair and in proper working order and that any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed.

Decision

8. The Committee accordingly determines that the Landlord has complied with the duty imposed by Section 14 (1) (b) of the Act.
9. The decision of the Committee was unanimous.

Right of Appeal

10. 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

11. Where such an appeal is made, the effect of the decision 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 will be treated as having effect from the day on which the appeal is abandoned or so determined.

P. Pryce

Date 14th October 2015

Patricia Anne Pryce