



PRIVATE RENTED HOUSING COMMITTEE

DETERMINATION UNDER SECTION 24 OF THE HOUSING (SCOTLAND) ACT 2006

THE PROPERTY

Flat 0/2, 19 Carmyle Avenue, Glasgow G32 8HL, registered in the Land Register of Scotland

THE PARTIES

Ms Lauren Grant & Ms Ashley Gallagher, formerly residing at the Property (the Applicant and former Tenant)

(Note: The tenancy under which the application was made, having been lawfully terminated, and the President having determined to continue with the determination of the application in terms of Minute of Continuation dated 7 July 2015 under Schedule 2 Paragraph 7(2) of the Act, there was no tenant)

and

Arnold Clark Automobiles Ltd, per Happy Lets Ltd, 1287 Argyle Street, Glasgow G3 8TL (the Landlords)

Committee Members – David M Preston (Convener); and Robert Buchan (Surveyor Member)

Decision

The Committee, having made such enquiries as are fit for the purposes of determining whether the Landlords had 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 property, and taking account of the representations by the Landlords and the former Tenant, determined that the Landlords had complied with the said duty.

Background

1. By application dated 13 June 2015, the applicant sought a determination of whether the Landlords had failed to comply with the duties imposed on them by section 14 (1) (b) of the Act.
2. The applicant alleged that the Landlords had failed to meet the Repairing Standard in respect that the property had been inspected by Glasgow City Council, Land & Environmental Services Department which stated in a letter dated 24 December 2014 that the property was seriously affected by dampness.
3. The applicant alleged that the property failed to meet the repairing standard in that the property was not wind and watertight and in all other respects reasonably fit for human habitation and that any fixtures, fittings and appliances provided by the landlords under the tenancy were not in a reasonable state of repair and in proper working order as specified in Section 13(1)(a) and (d) of the Act.
4. The applicant alleged that the dampness was the direct result of the owners failing: to improve ventilation; to provide de-humidifier(s); and to repair or replace the washer/dryer that made clothes smell rotten, forcing indoor drying over the winter.
5. On 1 July 2015 the Private Rented Housing Panel (PRHP) was advised in an email that the tenant had moved from the property on that day. In view of the serious defect alleged in the application and the consequent health and safety implications, the President issued a Minute of Continuation in terms of para 7(2) of Schedule 2 to the Act.
6. By Minute of Decision dated 7 July 2015 the President decided to refer the application to a Private Rented Housing Committee, which was followed by Notice of Referral to the Landlord dated 8 July 2015.

Inspection

7. The Committee inspected the property on the morning of 21 August 2015 and thereafter held a hearing in Europa Building, 450, Argyle Street, Glasgow G2 8LH. Mr Bobby Sandhu of Happy Lets was in attendance throughout the inspection on behalf of the landlords. Photographs were taken and form the schedule to this decision.
8. The inspection revealed that the property was a modern purpose built ground floor flat, built circa 2005 comprising: two bedrooms; kitchen; living room and bathroom. The flat had double glazing and gas fired central heating. The external walls of both the living room and main bedroom were largely made up of glass blocks.

9. At the time of inspection the property was vacant and the carpets had been pulled back from the bottom of the walls to allow access to the flooring below. The heating was on at the time of the inspection. The general condition of the property was consistent with its age of 10 years.
10. Mr Sandhu advised that since the property had been vacated the glass blocks and surrounds had been wiped and cleaned up in preparation for re-decoration. There was evidence of mould staining and small gaps in some of the mastic surrounds as can be seen in the photographs attached. There was no sign of any staining to the floor. Instrumental moisture meter readings were taken in the surround of the glass walls, windows and floor which did not indicate the presence of any dampness
11. Inspection of the carpets in each room showed no indication of any dampness. There were signs of mould at the bottom of the curtains.
12. In view of the apparent signs of condensation the Committee checked: the operation of the windows throughout the property; the light switch operated extractor fan in the bathroom; and two extractor units (cooker hood and fan) in the kitchen. These were all found to be in working order, although the bathroom fan did not have an over-run. The windows all had trickle vents which appeared to be in proper working order.
13. The Committee also considered the venting arrangements for the washer/dryer in the kitchen. The instruction manual was available and indicated that the unit operated without a discreet vent and condensate was discharged via the drainage system. The manual advised that no steam escapes the unit.
14. There were no signs of condensation in the kitchen, bathroom or second bedroom.
15. The Committee noted an Energy Performance Certificate posted in the boiler cupboard which showed that the property was rated in Band C. The average for homes in Scotland is Band D.
16. The exterior of the building showed no signs of water ingress.
17. Mr Sandhu advised that his company managed a number of the flats in the development and that no similar problems had arisen in them.
18. With regard to the operation of the washer/dryer, Mr Sandhu advised that in response to the complaint a contractor had examined the appliance and found it to be in proper working order and that the tenant had confirmed this to his firm by email. After the inspection, and before the scheduled time for the hearing, Mr Sandhu provided an email confirming that position and reporting on the results of the inspection of the appliance.

19. Reference was also made in the application to the provision of a de-humidifier. The Committee did not consider that this formed part of its deliberations in respect of the repairing standard.

Hearing

20. There was no attendance at the hearing.

21. The Committee carefully considered the results of the inspection as well as the written evidence submitted by the former tenants with their application which included: the letter from Glasgow City Council dated 24 December 2014; a report from Bromac Ltd, timber preservation and damp proofing specialists, dated 26 March 2015; and a letter from Bishopton Medical Practice dated 2 December 2014 regarding an asthma review for Ms Grant.

22. It was evident from the inspection and from these letters that there had been condensation in the vicinity of the glass block walls. The letter from Glasgow City Council also mentioned rising damp under the front window. The Committee found no evidence of rising damp.

Decision

23. In arriving at its decision the Committee took into account that the property was a modern purpose built flat with a higher than average performance rating. Double glazing was provided and windows were in proper working order. The gas central heating was in proper working order. There were two extractor fans and a cooker hood in the relatively small property. In general the property was in a reasonable state of repair.

24. The Committee would accept that the nature of the glass block walls might be a source of condensation in the absence of proper management of ventilation and heating. The letter from Bromac suggested that the trickle vents had been kept closed and that the heating had been use sporadically.

25. The Committee accepted the evidence of Mr Sandhu that the other properties in the development did not suffer from similar problems.

26. The Committee accepted that the balance of evidence demonstrated that the tenants had failed to maintain an adequate balance of heating and ventilation in the property resulting in unduly heavy condensation on the glass blocks giving rise to the complaint about mould.

27. The Committee accepted Mr Sandhu's position in relation to the washer/dryer.

28. The Committee accordingly determined that the landlords had not failed to meet the duties imposed by section 14 (1) (b) of the Act.

D PRESTON

Chairperson.
Private Rented Housing Committee

25-8-15
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Dated

Schedule of photographs taken during the inspection of
Flat 0/2, 19 Carmyle Avenue, Glasgow, G32 8HL
by Robert Buchan, FRICS, surveyor member of the
Private Rented Housing Committee on the 21st August 2015



Front door of flat



General view of the block



View of the glass blocks



View of the glass blocks of the subject flat



Interior view of living-room



Interior view of bedroom 1



Kitchen



Double glazing and trickle vents



Detail of mould staining and gaps in mastic