



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

PRHP Ref: PRHP/RP/15/0236

Property at: 78b Perth Road, Scone, Perthshire, PH2 6JL

Title No: PTH18941

The Parties

James Rodgers, formerly residing at 78b Perth Road, Scone, Perthshire, PH2 6JL
("the tenant")

and

Garry John Cumming, c/o Lettings Direct, 8 Atholl Crescent, Perth, PH1 5NG
("the landlord")

Decision

The Committee, having made such enquiries as it sought 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 in relation to the property concerned and taking account of all of the evidence available to the Committee, determined that the landlord has complied with the duty imposed by Section 14(1)(b) of the 2006 Act.

Background

- 1 By application dated 22/08/2015, the tenant applied to the Private Rented Housing Panel to determine whether or not the landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the 2006 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 house meets the repairing standard and, in particular that the landlord had failed to ensure that:
 - (a) The structure and exterior of the property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order, in terms of Section 13(1)(b) of the 2006 Act;
 - (b) The installations in the property 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 in terms of Section 13(1)(c) of the 2006 Act;

- 3 The President of the Private Rented Housing Panel intimated a decision to refer the application under Section 23(1) of the 2006 Act to a Private Rented Housing Committee. The Committee members were:

Paul Doyle Chairperson
Richard Burnett Surveyor Member

- 4 The tenant vacated the property on 04/09/2015. On 01/10/2015 the president of the Private Rented Housing Panel signed a minute of continuation under schedule 2, paragraph 7(2) of the Housing (Scotland) Act 2006. The Private Rented Housing Panel served notice of referral under and in terms of Schedule 2 Paragraph 1 of the 2006 Act on the landlord and the tenant on 6/10/2015. Following service of referral, neither party made any further written representations to the Private Rented Housing Panel.
- 5 The Committee inspected the property at 9.30 am on 16/11/2015. The landlord was present. The tenant was neither present nor represented.
- 6 Following inspection of the property, the Private Rented Housing Committee held a hearing at Algo Business Centre, Glenearn Road, Perth. The hearing was brief and informal because only the landlord was present (the tenant was neither present nor represented) and the inspection at 9.30 that morning had resolved almost all of the issues.
- 7 The tenant's position is that the gutters and downpipes and the exterior of the property are defective causing water to overflow; the mains water serving the shower requires a stopcock; that there are defects in the electrical system serving the property and that the central heating and plumbing systems have a number of defects.
- 8 The landlord's position is that the tenant exaggerated his claim to further a separate dispute between the landlord and tenant, and that, in any event, since the tenant vacated the property on 04/09/2015 all necessary works have been carried out as part of a programme of upgrading the property.

Summary of Issues

- 9 The issues to be determined are whether or not the house complies with the repairing standard set out at Sections 13 and 14 of the 2006 Act.

Findings in Fact

- 10 (a) The landlord is the heritable proprietor of the property which is the subject matter of this application. He let the property to the tenant on 28/11/2014 for six months until 27/05/2015. The tenancy agreement terminated on 04/09/2015 when the tenant vacated the property.

(b) The property is a double upper flat, entering from the first floor, in a stone built building with commercial property on the ground floor. Access is gained through a common passage and stair to the first floor. The front door opens onto a hallway which provides access to two bedrooms, a living room, and a kitchen. A flight of stairs leads to the upper (topmost) level of the property where a landing provides access to one bedroom, a box-room and a bathroom. The property benefits from gas central heating, with radiators in each room. The bathroom has a white three piece sanitary suite with an electric power shower above the bath

(c) In the week prior to inspection, a new shower was fitted above the bath. There is a mains water supply to the shower. In a cupboard off the bedroom on the upper floor of this property there is a tap which controls the mains water supply to the shower.

(d) In October 2015 a new central heating boiler was fitted in the property. The central heating system is now powered by a Vokera boiler, which is housed in a cupboard in the kitchen on the entry-level of this property. The central heating system is in proper working order. There are no defects in the boiler; the radiators provide adequate space heating for the property.

(e) The landlord has an up-to-date gas safety certificate which confirms that all gas installations in the property are free from defects.

(f) In October 2015 the property was rewired. A new consumer unit is housed in a cupboard below the window in a bedroom to the front of the property. There are no defects in the electrical installation to this property. The landlord has an up-to-date electrical installations certificate which confirms that the electrical installation is without defects.

(g) The gutters and downpipes to the rear of the property are old, but they are in proper working order. The landlord overhauls the gutters each year. There is no sign of water damage to the exterior or to the interior of this property. The gutters and downpipes are free from obstruction; they are in a reasonable state of repair and in proper working order.

(h) A schedule of photographs taken by the surveyor member of the committee during the inspection is annexed hereto.

(i) At the date of inspection the property fulfils all the requirements of the repairing standard set out at sections 13 and 14 of the housing Scotland act 2006.

Reasons for Decision

12 (a) Committee members inspected this property at 9.30 am on 16/11/2015. It was a grey, damp, cold, November morning. The tenant had vacated this property in September 2015 and was neither present nor represented. The landlord was present and welcomed Committee members into the property. The property was unfurnished. It was immediately apparent that upgrading and redecoration works were nearing completion. Some rooms had carpet which was freshly laid. In some rooms, rolls of carpet were lying waiting to be fitted. The central heating was on and the radiators were warm to touch.

(b) The landlord took committee members to the upper floor of this property and showed committee members a shower over the Bath which was fitted within the last three weeks. The shower is served by mains water. In a cupboard off the bedroom adjacent to the bathroom there is a tap which controls the flow of mains water supply in the bathroom.

(c) On the date of inspection there were no signs of water ingress (nor of water damage) to any rooms within this property.

(d) The landlord told committee members that a new central heating boiler has been fitted, and led committee members to the kitchen - where committee members could see brand-new Vokera boiler. The central heating was on & the radiators were warm. The central heating boiler clearly works properly.

(e) The landlord told committee members that within the weeks leading to the date of inspection the property had been rewired. Committee members inspected a brand-new consumer unit located in the cupboard below a window in a bedroom to the front of the property. Committee members were satisfied that the property has recently been rewired and that there are no defects in the electrical installation.

(f) Committee members inspected the exterior of the property and could clearly see the gutters, rainpipes and downpipes to both front and the rear of the property. To the rear, the gutters and downpipes are old and show signs of rust, but there was no sign of leakage from the gutters or downpipes. Committee members could see that the gutters and downpipes are not blocked. In the days leading to inspection there has been significant rainfall. There was no sign of damp staining on the stonework of the exterior of this property nor is there evidence of pooling water.

(g) After the inspection, a hearing took place at Algo Business centre, Glenearn Road, Perth. The landlord was present but was not represented. The tenant was neither present nor represented. The landlord produced a recent gas safety certificate and a recent electrical safety certificate, both of which committee members examined. Both certificates were up-to-date and both certificates confirmed that there are neither defects in the gas installation serving the property nor are there defects in the electrical installation serving the property. The landlord explained that the gutters serving the property are overhauled every year. What the landlord told committee members is entirely consistent with committee members own observations

(h) The tenant's complaint can be broken down into four areas.

(i) The tenant complains that the rainwater goods serving the exterior of the property are defective. Committee members own examination of the gutters, rainpipes and downpipes indicate that there is no defect in the rainwater goods.

(ii) The tenant complains that there is no mains water stop cock and the shower is defective. Committee members saw a new (replacement) shower and found a stopcock controlling the mains water supply to the bathroom.

(iii) The tenant says that the central heating boiler and plumbing system require "upgrading". Committee members saw a brand new central heating boiler and an up to date gas safety certificate.

(iv) The tenant says that the property requires "upgrading of electrical system and certification." Committee members inspected a property which has been recently rewired, which has a new consumer unit, and examined a satisfactory up to date electrical safety certificate.

(i) Committee members are therefore driven to the conclusion that there is no need for a repairing standard enforcement order.

Decision

13 The committee accordingly determined that the landlord has complied with the duty imposed by Section 14(1)(b) of the Act.

14. The decision of the Committee was unanimous.

Right of Appeal

15. 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

16. 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.

P. DOYLE

Signature..... Date..... 27/11/2015

Chairperson

PRHP/RP/15/0236
78b Perth Road, Scone, Perth, PH2 6JL
Inspection – 09:30
Hearing – 10:30
Schedule of Photographs

Photo 1 showing the frontage of the building

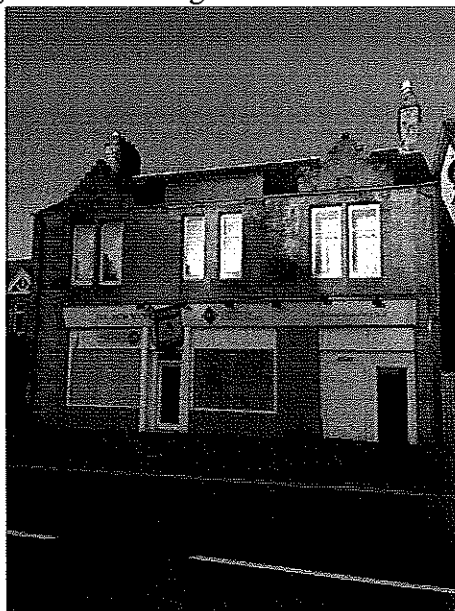


Photo 2 showing the entrance close

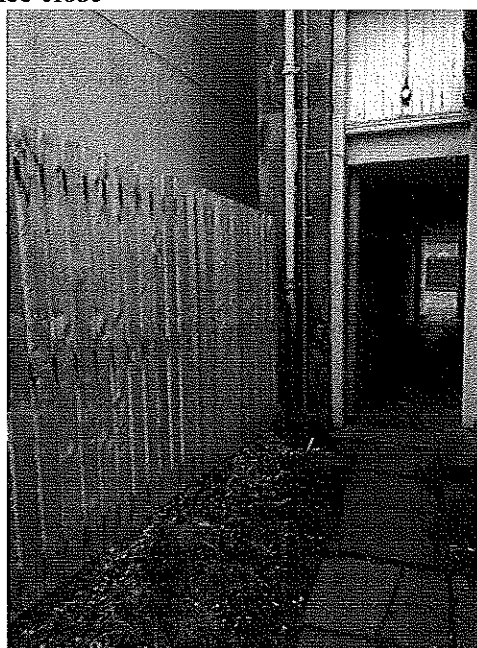


Photo 3 showing the new boiler

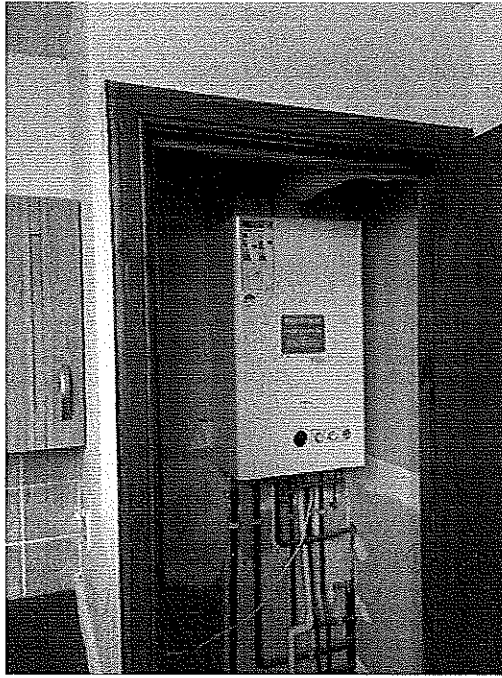


Photo 4 showing the new electrical consumer unit

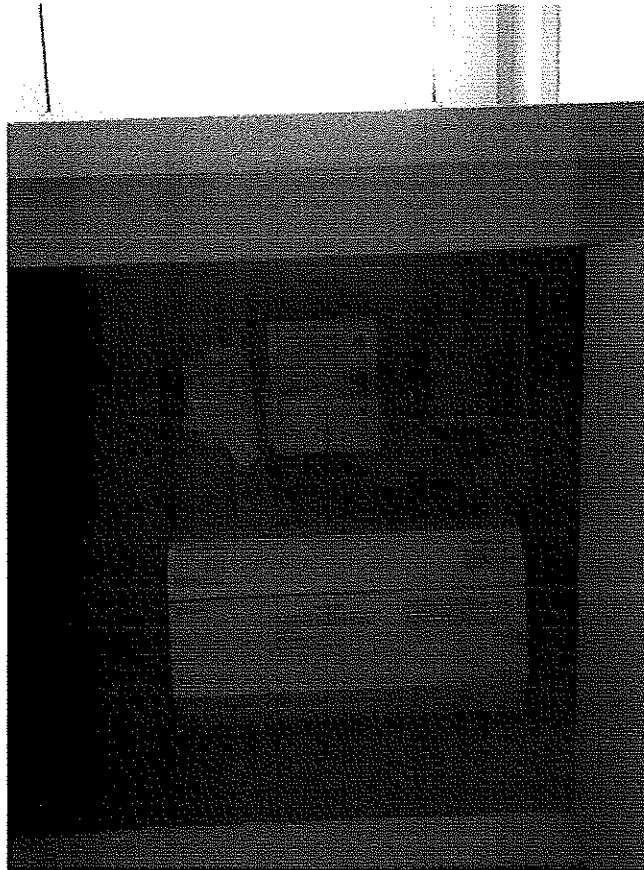


Photo 5 showing the new shower

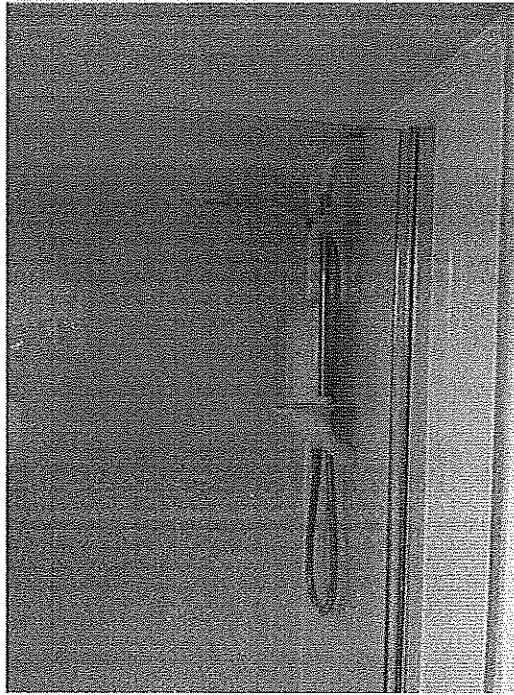


Photo 6 showing the new carpets



Photo 7 showing the new stopcock

