



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

Reference number: PRHP/RP/15/0352

Re: Property at 38 Main Street, Doune, Perthshire, FK16 6BJ ("the property")

Land Register Number: PTH10464

The Parties:-

Mr John Ritchie, formerly of 38 Main Street, Doune, Perthshire, FK16 6BJ ("the former Tenant")

Mr Nicholas Colquhoun and Mrs Rachel Colquhoun, care of Countrywide, trading as Slater Hogg & Howison, 44-46 Port Street, Stirling, FK8 2LJ ("the Landlords")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by the Landlords at the hearing and the documentation produced by the Landlords, determined that the Landlords had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated December 2015, the former Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the former Tenant stated that the former Tenant considered that the Landlords 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 that:- the house was wind and water tight and in all other respects reasonably fit for human habitation, that the structure and exterior of the house (including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order, that any fixtures and fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order, that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and that the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. 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. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlords and the former Tenant.

5. The Private Rented Housing Committee (comprising Mrs Judith Lea, Chairman and Legal Member and David Lawrie, Surveyor Member) issued a Direction on 9 February 2016 directing the Landlords to provide an up to date Electrical Installation Condition Report covering the full electrical installations in the property including smoke, heat and carbon monoxide detector provision.
6. The Landlords provided an up to date Electrical Installation Condition Report, invoices from an electrician in connection with the installation of smoke alarms, a legionella risk assessment and photographs of the property.
7. By this time the former Tenant had left the property.
8. The Private Rented Housing Committee (comprising Mrs Judith Lea, Chairman and Legal Member and David Lawrie, Surveyor Member) inspected the property on 22 March 2016. The Landlords were represented by their agents, Catherine Allen and Shona Brown from Countrywide. New Tenants had moved into the property and access was provided by the new Tenants' father. Following the inspection of the property, the Private Rented Housing Committee held a hearing at Stirling Enterprise Park, Stirling. The Landlords' agents attended the hearing.
9. The Committee heard submissions from the Landlords' agent at the hearing.
10. The former Tenant had raised a number of issues in his application. The Committee dealt with each of these in turn:-

(a) The Extractor Fan in the Kitchen

The Landlords' agents explained that as there were two large windows in the kitchen it was not necessary to have an extractor fan and the extractor fan had been removed and the hole made good. It was clear from inspection that there was no longer an extraction fan in the kitchen and that any hole left by removal of the extractor fan had been made good and redecorated. There was adequate ventilation in the kitchen.

(b) Kitchen Ceiling Light

The former Tenant indicated that this was hanging from a socket in the kitchen. From inspection there were two ceiling lights in the kitchen both of which seem to be in a good state of repair and there was no evidence of anything hanging from the ceiling.

(c) Ceiling Lights in the en-Suite Bathroom

The former Tenant indicated that two ceiling lights had been hanging from the ceiling in the en-suite since October 2015. On inspection all the ceiling lights in the en-suite bathroom were firm and were not hanging from the ceiling. The Landlords' agents confirmed that these ceiling lights had been repaired.

(d) Oven tripping the power switch

The Landlords' agents provided an up to date Electrical Installation Condition Report which found the electrics in the property to be satisfactory. PAT Certificates were also provided by the Landlords.

(e) Legionella Risk Assessment

The former Tenant complained that no annual legionella assessment had been done. The Landlords' agents provided a legionella risk assessment.

(f) Holes in the Internal Wall at the Backdoor

The former Tenant complained that there had been water damage causing two holes in the internal wall at the backdoor. The Landlords' agents advised that these holes had been caused by the buggy used by the former Tenant. It was clear from inspection that the holes had been repaired and the wall made good.

(g) Shelf in the Hallway

The former Tenant complained that the shelf in the hallway was hanging off the wall. From inspection it was clear that this shelf had been fixed.

The Committee considered that all these items complained about by the former Tenant had been satisfactorily addressed by the Landlords and found no breach of the Repairing Standard.

(h) Windows in the rear Living Room and front Living Room

The former Tenant complained that the rear living room window did not provide adequate protection against wind and that one of the front living room windows had water dripping from above in wet weather. There was no evidence on inspection that there was any water ingress through any of these windows. The windows are large sash and case windows. Some of the windows in the rear living room had a slight drop which might make them draughty. The Committee however considered having regard to the age and character of the property that it was not necessary to make a Repairing Standard Enforcement Order in respect of the windows. The Committee however would recommend that the Landlords monitor the situation to check there is no water ingress in the front living room and that a joiner looks at the windows in the rear living room to see if the drop can be rectified and whether extra draught-proofing can be provided.

(i) Smoke Alarms

The former Tenant complained that the property did not have adequate smoke detectors. The Landlords' agents confirmed that two new smoke detectors had been fitted in the property and these were hardwired. These were evident on inspection. A heat detector was also evident on the kitchen ceiling. However on the top floor of the property the smoke alarm in place appeared to be old and it was not clear whether it was fully functional and whether or not it was hardwired. The Committee had concerns about this for health and safety reasons as there is a new Tenant in the property who has young children. The Landlords' agents undertook to have all the smoke alarms checked by an electrician and replace the old smoke alarm on the upstairs floor within a week.

This documentation was provided by the Landlords' agents and accordingly the Committee did not consider it necessary to make a Repairing Standard Enforcement Order.

(j) Metering

The former Tenant had complained that the metering in the property was redundant. The Landlords' agents stated that the former Tenant had asked for the meter to be changed to a less expensive meter system but the Landlords were not willing to do this. From inspection it was clear that there was a functioning meter in the property and the Committee found no breach of the Repairing Standard.

11. The Landlords' agents confirmed at the hearing that the Landlords in this case did deal with all issues which were raised and were happy to carry out any necessary repairs.

Decision

12. The Committee accordingly determined that the Landlords had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
13. The decision of the Committee was unanimous.
14. Photographs showing the windows at the property as at the date of inspection are attached at Appendix A.

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.

Judith Lea

Signed Date.....
Chairperson

1/4/16

Appendix A



Judith Lea

Signed:.....

Judith V Lea