



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

prhp Ref: prhp/KA13/151/12

Re : Property at 132 Sundrum Place, Kilwinning KA13 6ST ("the Property")

The Parties:-

John Devlin, 132 Sundrum Place, Kilwinning KA13 6ST ("the Tenant")

Colin John Macdonald, 3/1, 65 Renfield Street, Glasgow G2 1LF ("the Landlord")

### Decision

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) in relation to the house concerned, determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

### Background

1. By application received on 20 August 2012, the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord 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 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 house is wind and water tight and in all other respects fit for human habitation.
  - (b) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order; and
  - (c) 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.
3. By letter dated 3 October 2012, the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (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 Landlord and the Tenant.
5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee. The Landlord (by e-mail dated 18 October 2012), made written representations to the Committee and also provided the Committee with a Gas Safety Certificate dated 4 September 2012, following a Notice of Direction issued by the Committee on 1 October 2012.

6. The Private Rented Housing Committee inspected the Property on the morning of 27 November 2012. The Tenant was present at the inspection. The Landlord was not present or represented during the inspection. The Committee comprised George Clark (chair), Mike Links (surveyor) and Jim Riach (housing member). The weather at the time of the inspection was dry, sunny and cold.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Ardeer Community Centre, Shore Road, Stevenston. Neither the Tenant nor the Landlord was present or represented at the hearing.
8. The Tenant, in his application, submitted that roughcast was falling off or missing, a window was leaking, that he had no central heating or hot water, that a gutter was hanging off, that the perimeter fence was falling down and that the central heating system had not been serviced in 5 years. At the inspection, however, the Tenant confirmed that all of the repair works had since been carried out by the landlord, with the exception of the perimeter fence.
9. The Landlord, in an e-mail of 18 October 2012, submitted that all works relating to the case had either been carried out or were in the process of being carried out. The central heating boiler had been replaced. Although the fence was "not cosmetically A1", it was sound and the Landlord would deal with the cosmetic aspect at a later date.

#### **Summary of the issues**

10. The issues to be determined were whether the property met the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duties imposed by section 14(1)(b) of the Act.

#### **Findings of fact**

11. The Committee finds the following facts to be established:-
  - Although the Committee has not seen a copy of the tenancy agreement, the tenancy is an assured tenancy or short assured tenancy as the Tenant confirmed that it commenced between 4 and 5 years ago,
  - The Property comprises an end-terraced, two storey former Irvine Development Corporation house.
  - The roughcast rendering to the rear of the Property has been replaced or repaired and appears to be sound.
  - The rear bedroom window appears to be watertight.
  - The tenant has confirmed that the central heating and hot water supply are satisfactory and the Committee has seen a current Gas Safety Certificate.
  - The repair to the guttering has been carried out.
  - The perimeter fence has been repaired, albeit not to the satisfaction of the tenant.

#### **Reasons for the decision**

12. The Committee accepted that the Landlord has carried out the repairs which were the subject of the Tenant's application and concluded that the condition of the perimeter fence did not warrant the issuing of a Repairing Standard Enforcement Order. The Tenant pointed out at the inspection a number of other defects, but the Committee could not deal with these, as they had not been included in the Tenant's application to the Private Rented Housing Panel. The Committee noted with concern, however, that there does not appear to be a mains-wired system of fire detection interconnecting smoke detectors between the ground and upper floors of the Property and recommends that the Landlord attends to this as a matter of urgency.

**Decision**

- 13. The Committee accordingly determined that the Landlord had not failed to comply 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.

Signed **G Clark** ..... Date 27 November 2012 .....  
Chairperson