



DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE
UNDER SECTION 24(1)
OF THE HOUSING (SCOTLAND) ACT 2006**

In connection with

**Property at Attic Flat, 2 Lawrence Street, Broughty Ferry, Dundee, DD5 1ET
("the House")**

The parties:

Mr Jon Hunter, formerly residing at the House ("the Tenant")

and

**Miss Kerry Hunter, 1 Foundry Place, Monifeith, Dundee, DD5 4BB ("the
Landlord")**

**Committee: Mr Maurice O'Carroll (Chairperson); Mr Ian Murning (Surveyor
Member)**

PRHP/RP/16/0053

DECISION

The Committee having made such enquiries as are 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 ("the Act") in relation to the House, and having taken account of the evidence of the written documentation attached to the application and submitted by the parties and its inspection of the House, has made the following decision:

It has determined that the Landlord has not failed to comply with the duty imposed by section 14(1)(b) of the Act.

The decision was unanimous.

Background

By application received on or about 10 February 2016 (the “Application”) the Tenant applied to the Private Rented Housing Panel (“PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the 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 compliance with the following paragraphs of section 13(1) of the Act:

- “(a) the house is wind and water tight and in all other respects reasonably 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;*
- (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; and*
- (d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order ...”*

The Tenant provided a list of items which purportedly required to be completed before the House could meet the Repairing Standard. This formed the basis of the Committee’s inspection.

By letter dated 24 March 2016, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

The Committee comprised the following members:

Maurice O’Carroll, Chairperson
Mr Ian Murning, Surveyor Member

The Committee inspected the House at 10.00am on 4 May 2016. Neither the Tenant nor his representative from Dundee North Law Centre was present at the inspection. The Landlord afforded entry and was present at the inspection.

Following the inspection, the Committee held at Caledonian House, Greenmarket, Dundee. Neither the Tenant nor the Landlord were present at the hearing. The Committee considered the written evidence submitted by the parties and based its decision upon the that and the inspection which it had carried out.

Summary of the Issue

The issue to be determined is whether (a) the House meets the repairing standard as laid down in section 13(1)(a)(b)(c) and (d) of the Act, and therefore (b) whether the Landlord has complied with the duty imposed by section 14 (1)(b).

Findings in Fact

The Committee made the following findings in fact:

The Landlord and the Tenant entered into a Tenancy agreement in respect of the House on 1 March 2015 when the Tenant took occupation.

The Landlord was recorded on the Lease as being Miss Kerry Hunter.

The registered owner of the House is Miss Kerry Hunter, 80 Milton Street, Monifeith, DD5 4QG above under Title Number ANG23051.

The Tenant ceased occupation of the House on 1 March 2016. A Minute of Continuation was signed on 5 April 2016 and served on the parties on or about that date.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defects in the house which are now the subject of the Application on 8 February 2016.

The inspection on 4 May 2016 revealed:

The property is an attic flat above a five block tenement. Individual access is gained from an external staircase to the upper part of the tenement block and then by means of an internal stairwell between two other top floor tenement flats.

The House is a two bedroom flat consisting of a kitchen, separate living area, internal WC, bath and shower room, hallway and bedrooms to the front and rear of the property, the smaller one being located at the front. The roof is slated with a dormer window to the rear of the property.

The House has recently been refurbished to a very high standard with a brand new fitted kitchen, new fitted bathroom with new electrical shower, new carpets and kitchen flooring and recently installed solid oak internal doors. There was no evidence of water ingress, the fittings and installations were of high quality, in an excellent state of repair and functioned correctly. In particular, in the bathroom, no leak was found at the base of the toilet unit as alleged in the Application and new, high quality fittings had recently been installed.

Externally, there was some evidence of some standing water in the guttering and one or two loose tiles, but nothing that required anything other than standard annual maintenance. It appeared to the Committee that the photographs which accompanied the Application had been taken while the House was mid-way through the refurbishment process which had been completed by the time of the inspection. In any event, the photographs

provided were entirely unrepresentative of the condition of the House at the time of the inspection.

The written list of supposed defects included with the application and which were notified by the Tenant to the Landlord were each considered in turn and found to be without any basis by the time of the inspection.

Photographs taken at the time of the inspection are appended to this decision.

Decision of the Committee and reasons

In light of the outcome of its inspection, the Committee, considering the terms of section 13(3) of the Act, determined that the Landlord had not failed to comply with the duty imposed by section 14(1)(b) of the Act.

The Committee was therefore of the view that it was unnecessary for it to make a Repairing Standard Enforcement Order in terms of section 24(2) of the Act.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

Maurice O'Carroll

Maurice O'Carroll
Chairperson

Date: 9 May 2016

Photograph 1 Front Elevation





