



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 64 Thornton Park, Forfar, Angus, DD8 1HQ (“the House”)

The parties:

Mrs Michelle Wilson, formerly residing at the House (“the Tenant”)

and

**Mr Bruce Webster, 11 Well Road, Lunanhead, Forfar, DD8 3NY, c/o Messrs
David Wardhaugh & Son, 38-42 East High Street, Forfar, DD8 2EG (“the
Landlord”)**

PRHP/RP/16/0074

Committee:

Mr Maurice O’Carroll (Chairperson)

Mrs Geraldine Wooley (Surveyor Member)

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 22 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..."

The Tenant provided photographs showing mould in certain rooms within the House and detailed unacceptable levels of damp to be found there.

By letter dated 29 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
Mrs Geraldine Wooley, Surveyor Member

The Committee inspected the House at 10.00am on 6 May 2016. The current tenant's mother was present at the inspection as was the Landlord's representative, Mr Hamish Menzies.

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

Photographs taken by the surveyor member are appended to this decision.

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) 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 some time prior to November 2015 when the Tenant took occupation.

The registered owner of the House is Mr Bruce Webster, 20 Laurel Bank, Forfar, DD8 1LQ under Title Number ANG23051. The Landlord's representative is Mr Hamish Menzies of Messrs David Wardhaugh & Son as noted above.

The Tenant ceased occupation of the House on 23 March 2016, citing continued dampness as the reason for leaving. A Minute of Continuation was signed by the Chairman 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 10 February 2016.

The inspection on 6 May 2016 revealed:

The property is a two storey semi-detached former local authority dwelling house built circa 1970s. On entry through the main front door, there is a hallway giving on to a living room to the right, with french windows leading to the garden area to the rear of the property. In front of the main door there is a kitchen with access to the garden area and a staircase to the left. The House is in generally good decorative order throughout.

On the upper level, there is a narrow landing providing access to two storage areas, two bedrooms and a bathroom with shower. The House is double glazed throughout. A new extractor fan has been fitted in the bathroom to reduce moisture and condensation.

The House had been redecorated approximately two weeks prior to the inspection, having been treated in the relevant areas with anti-mould spray. There were no signs of mould at the time of the inspection (in contrast to the photographs provided with the application) and damp meter readings were within the normal level.

Externally, four new air vents had been fitted on the front portion of the roof in order to ventilate the loft void within the House. Neighbouring properties also had roof vents fitted. To the rear, the lower run of tiles had been refitted to allow for a more effective run-off from the roof.

The inspection did not reveal anything else of note.

On 25 April 2016, Mr Menzies provided PRHP with a total of six invoices to vouch the works done in order to eradicate damp and mould within the House and to prevent its recurrence in future.

The present tenant had only been in occupation of the House for less than a week before the date of the inspection. Prior to moving in, she had undertaken an

extensive clean of the House to remove all traces of mould which had in fact been present as at the date of entry.

Decision of the Committee and reasons

Since the works vouched by the various invoices supplied had been carried out, there had been extensive rain and windy weather. The Committee considered that those conditions would have revealed the works to have been ineffective if that was indeed the case. It was therefore of the view that the works as vouched had been effective in addressing the complaint which formed the basis of the Application.

Further, the Committee was satisfied that the works as undertaken were likely to remain effective and to eradicate the problem of internal damp and mould which had previously affected the House. In particular, the Committee was of the view that the works as vouched by the AJ Plested invoice of 10 December 2015 properly addressed any issues in relation to water ingress to the House. The condition of the attic being warm and damp previously was liable to create conditions that would lead to internal dampness and mould. The introduction of four air vents in the roof was in the view of the Committee likely to address that issue fully.

In light of the outcome of its inspection and the above considerations, 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.

However, the Committee recommends that the level of condensation within the House be monitored once the present tenant has had time to become established within the House and has occupied it for a reasonable period of time (three months is suggested). The Committee also recommends replacing the loft insulation which was removed during the works referred to above.

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.

M O'Carroll

Maurice O'Carroll
Chairperson

Date: 10 May 2016



Property: 64 Thornton Rd Forfar DD8 1HQ

Ref no: prhp/rp/16/0074



Photo 1. Front elevation showing ventilators installed in roof



Photo 2. Rear elevation – the lower row of roof tiles has been raised and verge tiles replaced.

Photo 3 Main bedroom

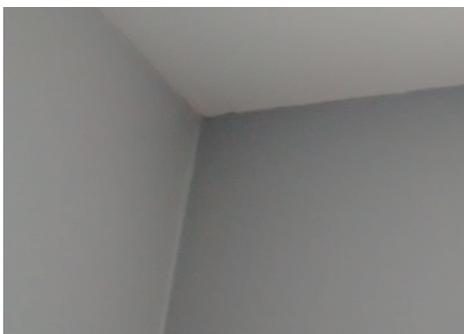
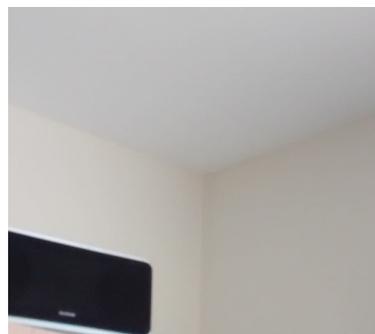


Photo 4: second bedroom



Photos 3 and 4: bedrooms where tenant provided photo evidence of damp and mould. At time of inspection there was no evidence of damp and new decorations remain in good condition