



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

prhp Ref:prhp/rp/16/0093

Re : Property at 38/2 Marionville Road, Edinburgh EH7 5UB (“the Property/the house”)

The Parties:-

Ms Jacqueline Gwynn, sometime 38/2 Marionville Road, Edinburgh EH7 5UB (“the Tenant”)

Mrs Teresa Vanda Houston, 40 Bankton Avenue, Murieston, Livingston EH54 9LD (“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 3 March 2016 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 the duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order, and
 - (b) the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. The Tenant advised, by letter dated 8 March 2016 that she had served notice to terminate her tenancy and would be vacating the Property on 6 April 2016. The Tenant was, therefore, deemed to have withdrawn the application, but, on 8 April 2016, the Committee decided to continue to determine the application rather than abandon it and this Decision was intimated to the Parties.
4. By letter dated 15 April 2016 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.
5. 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.

6. Following service of the Notice of Referral the Tenant made no further written representations to the Committee other than the original application. The Landlord, following upon a Direction of the Committee made on 8 April 2016, forwarded to the Committee a copy Invoice from Electricfix relating to, inter alia, the purchase of a Switch Shower Hose and a 7 Year Long Life Carbon Monoxide Alarm.
7. The Private Rented Housing Committee inspected the Property on the morning of 3 June 2016. The Tenant, having vacated the Property, was not present or represented during the inspection. The Landlord was represented by Mr Ronald Houston during the inspection.
8. The Committee comprised George Clark (Chairman) and Susan Napier (Surveyor Member).
9. A file of photographs, taken at the inspection, is attached to and forms part of this Statement of Decision.
10. Following the inspection of the Property the Private Rented Housing Committee held a hearing at George House, 126 George Street, Edinburgh EH2 4HH. Neither the Tenant nor the Landlord was present or represented at the hearing.
11. The Tenant submitted as follows:- the plastic pipe of the shower would not fit the shower head, as the thread had worn away and the Landlord had failed to supply a carbon monoxide detector.
12. The Landlord did not make any submissions to the Committee, but had provided the copy Invoice referred to in paragraph 6 of this Statement of Decision, together with photographs of the shower head and the carbon monoxide detector..

Summary of the issues

13. 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 on landlords by Section 14(1)(b) of the Act.

Findings of fact

14. The Committee finds the following facts to be established:-
 - The tenancy is a Short Assured Tenancy, which terminated when the Tenant vacated the Property on 6 April 2016.
 - The Property comprises a ground floor flat in a custom-built tenement erected around 1900.
 - There is a carbon monoxide detector in the kitchen of the Property. It bears in ink the date 28 April 2016.
 - The shower head was tested and found to be functioning properly at the time of the inspection.

Reasons for the decision

15. It was clear to the Committee at the inspection that the Landlord had attended to the two matters which were included in the application.

Decision

16. The Committee accordingly determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
17. The Committee did not, therefore, make a Repairing Standard Enforcement Order.

18. The decision of the Committee was unanimous.

Right of Appeal

19. 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

20. 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.

G Clark

Signed
Chairperson

..... Date 3 June 2016

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Property – 38/2 MARIONVILLE ROAD, EDINBURGH EH7 5UB

PHOTOGRAPHS OF INSPECTION 3 JUNE 2016



Front elevation – ground floor flat

Photographs of 382 Marionville Road, Edinburgh EH7 5UB

3 June 2016

Shower head in working order



CO detector fitted in kitchen



Detector fitted next to boiler in kitchen

Susan Napier, BSocSc, FRICS
Surveyor Member PRHP
3 June 2016