



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

Re: Goatend, Gatehouse of Fleet, Castle Douglas, DG7 2EE being part of the subjects described in the Disposition in favour of Walter Jameson McCulloch recorded GRS (Dumfries) 20th April 1951 ('the Property')

The Parties:-

Dumfries & Galloway Council, Landlord Registration Department, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('The Applicant')

Ardwall Farms Limited being a Company registered under the Companies Acts and having their registered office at 1, Earl Gray Street, Edinburgh, represented by Alexander McCulloch residing at Ardwall House, Gatehouse of Fleet, Castle Douglas, DG7 2EN ('The Landlord')

Case Ref No: PRHP/RT/16/0117

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 Property, determined that the Landlord has NOT failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. Dumfries & Galloway Council, Landlord Registration Department, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD applied to the Private Rented Housing Panel for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application stated that they considered that the Landlord has failed to comply with his duty to ensure that the Property meets the repairing standard. They advised that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order; the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and the Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

In particular the application stated that:-

'There are no hardwired smoke/heat detectors in place. There has been no check on the electrical installation which is approximately 30 years old.'

The Applicant advised that the Tenant is Andrew Hind residing at Goatend, Gatehouse of Fleet, Castle Douglas, DG7 2EE ('The Tenant')

3. The President of the Private Rented Housing Panel, having considered the application, comprising documents received between 30th March 2016 and 1st April 2016, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Committee members were Jacqui Taylor (Chairperson) and George Campbell (Surveyor Member).
5. The public register of Registered Landlords states that Ardwall Farms Limited is the Landlord of the Property.
6. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlord, the Applicant and the Tenant, dated 26th April 2016.
7. The Committee attended at the Property on 7th June 2016. The Tenant, Alexander McCulloch and also Amanda Green and Robert Rome of Dumfries and Galloway Council were present at the inspection. The Property is a detached farmhouse, circa late 19th century. The accommodation comprises two public rooms and kitchen on the ground floor and three bedrooms on the first floor. The Committee inspected the alleged defects and found that alarms had been fitted as follows:
 - Interconnected hardwired smoke alarms had been fitted in the upper bedroom, upper hall, lower hall and second living room. They surveyor member of the Committee tested the alarms and determined that they worked.
 - Carbon monoxide alarms had been fitted in the two living rooms.
 - A heat sensor had been fitted in the kitchen.

Photographs were taken during the inspection and are attached as a Schedule to this report.

8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Gatehouse of Fleet Community Centre, Garden Street, Gatehouse of Fleet, Dumfries, DG7 2 JU.

Alexander McCulloch and also Amanda Green and Robert Rome of Dumfries and Galloway Council attended the hearing.

In relation to the matters detailed in the application Alexander McCulloch provided an electrical installation report dated 19th April 2016 prepared by Greg Walls of Derek Mitchell Electrical Limited, Unit 1, Station Yard, Castle Douglas, DG7 1LA. The report confirmed that the electrical installation in the Property is satisfactory.

Summary of the issues

The issues to be determined are:-

9.1 The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order (Section 13(1)(c) of The Housing (Scotland) Act 2006).

Whether the electrical installations in the Property are in a reasonable state of repair and proper working order.

9.2 The Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and The Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health (Section 13(1)(f) and (g) of The Housing (Scotland) Act 2006).

Whether the Property has satisfactory provision of smoke alarms, heater sensors and carbon monoxide alarms.

Findings of fact

10. The Committee accepted the terms of the said electrical condition report by Greg Walls of Derek Mitchell Electrical Limited and determined that the electrical installations in the Property are in a reasonable state of repair and proper working order.

The Committee reflected that Building Standards require that there should be at least:

- One functioning smoke alarm in every room which is frequently used by occupants for general daytime living purposes.
- One functioning smoke alarm in every circulation space, such as hallways and landings,
- One heat alarm in every kitchen, and
- All alarms should be interlinked.

The Committee determined that the alarms and sensors in the Property comply with the terms of the Repairing Standard.

The Committee acknowledged that the smoke alarms are hardwired and interlinked, with the exception of the battery operated alarm in the second living room and there are smoke alarms in the hallways and landings as required. The heat sensor in the kitchen meets the requirement for there to be a heat alarm in the kitchen.

They also acknowledged that there are two living rooms in the Property. The main multi fuel burner that heats the central heating system is located in the first living room. There is a hardwired smoke alarm in this room. In the second living room there is only a battery operated smoke alarm. They acknowledged that as the hardwired alarm is located in the room with the larger, principal multi fuel burner the smoke alarms in the living rooms comply with the requirements of the Repairing Standard.

They also acknowledged that as the carbon monoxide alarms had been installed in the two rooms where there are fixed combustion appliances the carbon monoxide alarms comply with the terms of the repairing standard.

Decision

11. The Committee accordingly determined that the Landlord had NOT failed to comply with the duties imposed by Sections 13 (1)(a), 13(1)(g) and 13(1)(f) of the Act, as stated.

12. The decision of the Committee was unanimous.

Right of Appeal

13. 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

14. 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.

J Taylor

Signed
Chairperson

..... Date 22nd June 2016

Photographs taken at Goatend, Gatehouse of Fleet DG7 2EE on 7 June 2016 (PRHP/RP/16/01/17)



01 - Front elevation



02 - Heat detector - kitchen



03 - Smoke detector - sitting room



04 - Smoke detector - living room



05 - Smoke detector - upper hall



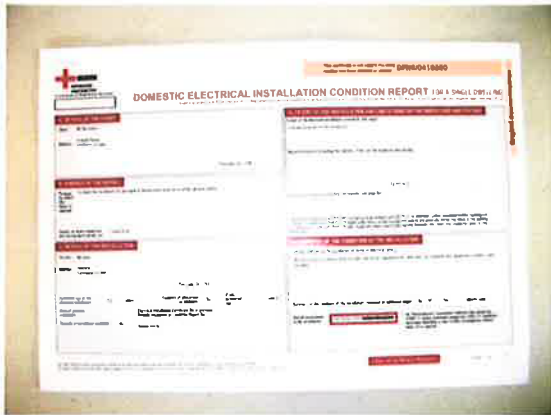
06 - Smoke detector - upstairs room



07 - Carbon monoxide detector - living room



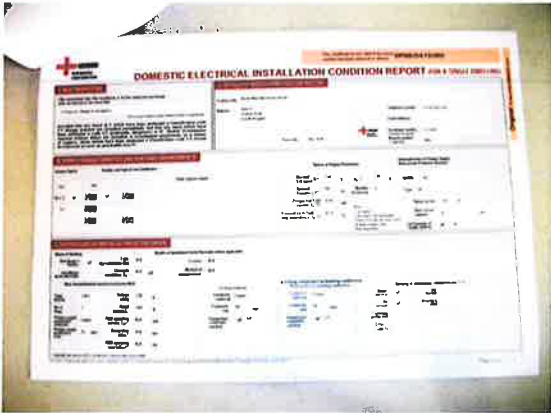
08 - Carbon monoxide detector - sitting room



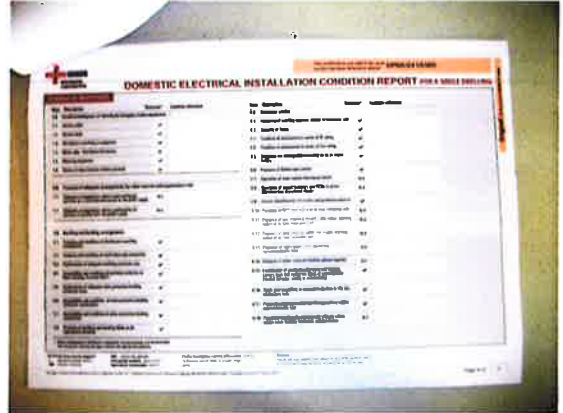
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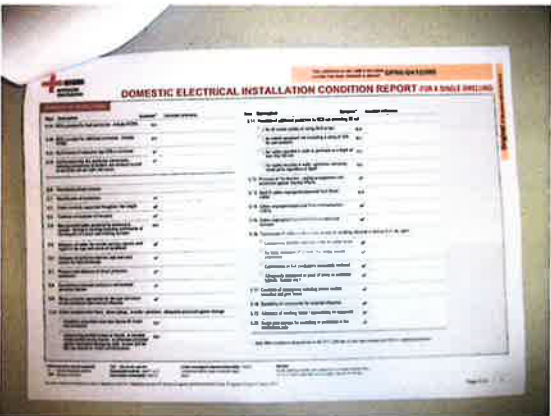
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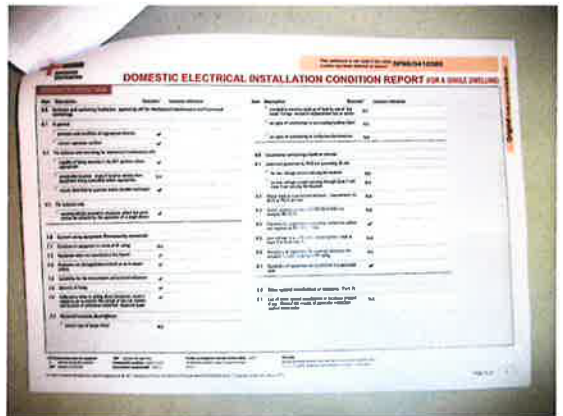
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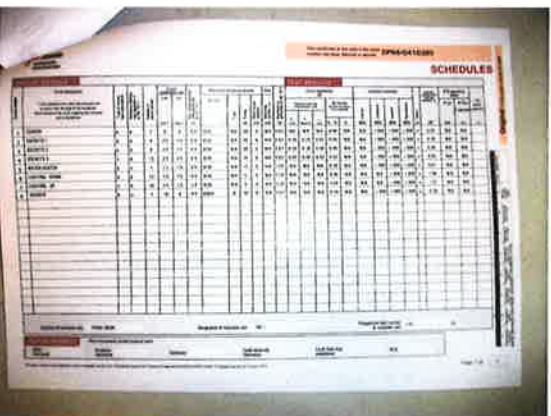
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