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

prhp Ref: PRHP/RP/16/0125

Re : Property at 93 Chapel Street, Aberdeen, AB10 1SS ("the Property")

The Parties:-

Eduardo Gorgolas, formerly residing at 93 Chapel Street, Aberdeen, AB10 1SS ("the former Tenant")

and

David Watson, Flat 13 The Matrix, 112 Cowcaddens Road, Glasgow, G4 0HL ("the Landlord"), who's agent is Stonehouse Lettings, Stonehouse Property Ltd, 5 Carden Terrace, Aberdeen, AB10 1US

The Committee comprised:-

Mrs Ruth O'Hare	**-**	**Chairperson**
Mr Colin Hepburn	**-**	**Surveyor member**

Decision

The Committee unanimously determined that the Landlord had complied with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act")

Background

1. By application received on 6 April 2016 the Applicant 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 stated that the Applicant 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 watertight and in all other respects reasonably fit for human habitation;

    (b) the structure and interior 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) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

3. In particular the former Tenant stated that the boiler was not in proper working order, there was a lack of smoke detectors and carbon monoxide detectors in the property and there was mould growth in the bedroom wardrobe.

4. By letter dated 20 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 Applicants.

6. Following service of the Notice of Referral both the Landlord and the former Tenant made written representations to the Committee. The Landlord produced confirmation that the boiler was in proper working order by way of a gas safety certificate and advised that smoke detectors and carbon monoxide detectors had been installed. The Landlord further produced a report from a damp specialist to the effect that any condensation in the wardrobe was likely due to the former Tenant's lifestyle. The Landlord submitted that the former Tenant's complaint was vexatious and an attempt by him to terminate the lease early. In his representation the former Tenant confirmed that smoke and carbon monoxide detectors had been installed in the property however the boiler was not in proper working order and the mould in the wardrobe was a result of defects in the structure of the property. He referred to a report from another damp specialist which he had submitted with his application. That report suggested there was potentially water ingress and dampness in the bedroom which may be the cause of the condensation.

7. On 21 April 2016 the former Tenant contacted the Committee to request that the date of the inspection and hearing be brought forward from the 31st May 2016 as the tenancy was due to come to an end on 26th May 2016. The Committee identified an alternative date of 26th May 2016 however the Landlord was unavailable to attend on that date and had made arrangements to travel to Aberdeen for the hearing on 31st May. The Committee therefore considered it appropriate in the interests of justice to proceed with the hearing assigned for 31st May 2016. The Committee noted the tenancy would terminate on 26th May 2016. By Minute of Continuation dated 25th May 2016 the Committee decided to continue with the application in view of the fact that the disrepair alleged by the former Tenant was of a sufficiently serious nature.

8. The Private Rented Housing Committee attended the property on 31st May 2016. The Landlord and the Landlord's Agent were both present. The Committee proceeded to inspect the Property.

The Inspection

9. During the inspection the Committee members examined the areas of complaint raised by the former Tenant. His complaint was that the boiler was not in proper working order and there was mould in the bedroom wardrobe.

10. The Committee members inspected the boiler and found it to be in proper working order. The Committee had previously had sight of the gas safety certificate provided by the Landlord. The Committee noted that smoke and carbon monoxide detectors were installed and appeared to be in proper working order.

11. The Committee members examined the bedroom wardrobe and found no evidence of mould. It was noted that the area had been freshly painted however readings were taken with a damp meter and found no evidence of damp or moisture in the room. The wardrobe did not back on to an outside wall.

12. The inspection was concluded and the Committee members travelled to the venue for the hearing.

The Hearing

13. The hearing took place in the Credo Centre, John Street, Aberdeen. The Landlord and the Landlord's Agent were present. The former Tenant was not present.

14. The Landlord made submissions to the Committee. There was no problem with the boiler in the property. All of the radiators were working. The boiler had been inspected in February 2016 and confirmed to be in proper working order. It had been serviced every year since the property was built, around 12 years ago. The previous tenants had no issue with the condition of the property. The wardrobe had been perfectly dry when they vacated the property. The moisture had occurred due to the former Tenant's lifestyle. He had not used the trickle vents, therefore ensuring effective ventilation, and had crammed the wardrobe full of items. He had failed to use the heating appropriately. Any issues with mould were entirely a result of his conduct.

Findings of fact

15. Having considered all the evidence the Committee found the following facts to be established:-

    - The tenancy is a short assured tenancy between the Landlord and the former Tenant which commenced on 27 November 2015. The tenancy has now been lawfully terminated and the former Tenant vacated on 26 May 2016.
    - The Property consists of a flatted dwelling house within a multi storey block. The accommodation comprises an entrance hall, two bedrooms, bathroom and lounge/kitchen.
    - The Property was inspected on the afternoon of 31st May 2016 on a cold and dry day;
    - The property has satisfactory provision for detecting fires and giving warning in the event of fire or suspected fire;
    - The property has satisfactory provision for giving warning if carbon monoxide is present in hazardous concentrations;
    - The property is wind and watertight and in all other respects reasonably fit for human habitation;
    - The boiler is in a reasonable state of repair and in proper working order; and
    - The Property complies with the repairing standard.

Reasons for the decision

16. The Committee determined the application having regard to the terms of the application, the written representations and their inspection.

17. The Committee was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the application.

18. The Committee was satisfied that the boiler was safe and in proper working order, having had regard to its findings during the inspection and the gas safety certificate provided by the Landlord. The Committee noted that smoke and carbon monoxide detectors had been installed and this had been accepted by the former Tenant.

19. With regard to the allegations of mould the Committee found no evidence of same at the time of the inspection. Meter readings confirmed that the bedroom was free from moisture and damp. The Committee noted the content of the damp specialist reports provided by both the Landlord and the Tenant which reached different conclusions on the cause of the condensation complained of by the Tenant. From its own inspection of the property, the

Committee found no evidence of dampness or condensation and therefore concluded that the property was wind and watertight.

20. The Committee therefore determined that the Landlord had complied with his duties under section 14(1)(b) of the Act and accordingly took no action. The decision of the Committee was unanimous.

Right of Appeal

21. 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. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the panel or the committee which made the decision.

Effect of section 63

22. 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.

Ruth O'Hare

Sig ..... Date 20 June 2016

Ruth O'Hare
Chairperson

Schedule of Photographs in respect of decision by the Private Rented Housing Committee dated 20 June 2016

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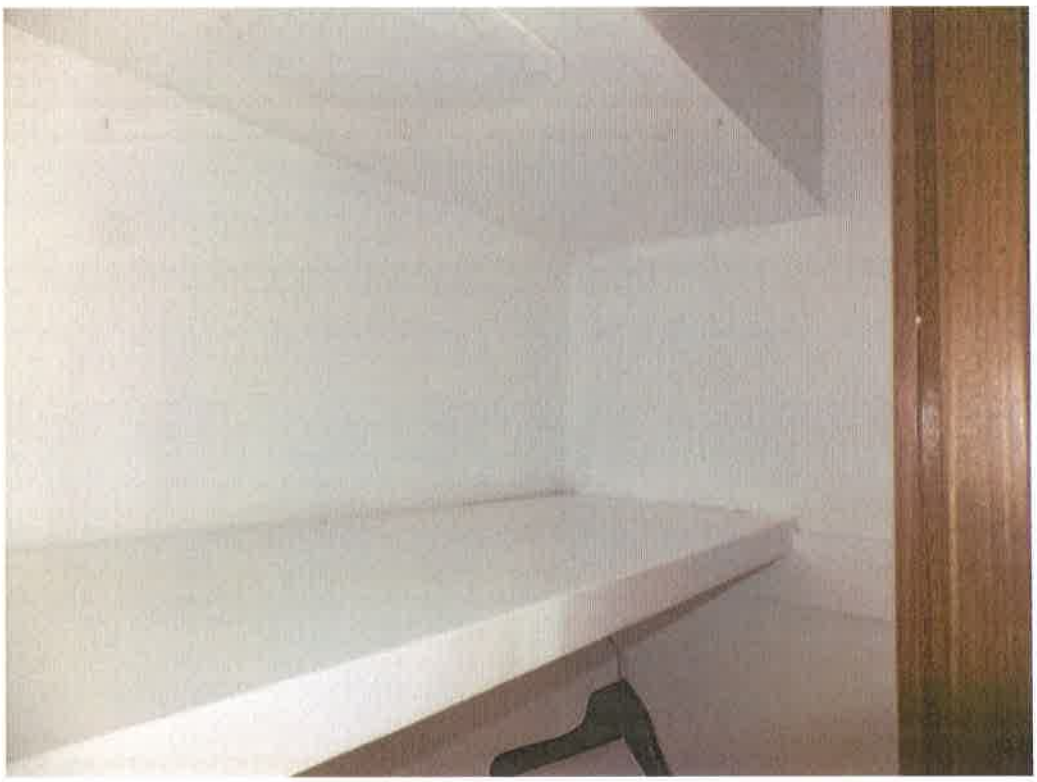
Re : Property at 93 Chapel Street, Aberdeen, AB10 1SS

External view

Bedroom cupboard



Bedroom cupboard

Bedroom cupboard

Boiler