

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: The residential property at
3 Braidburn Terrace,
Edinburgh
EH10 6EU
("the Property").

The Parties:-

Mr Scott Watt
resident at the Property
("the tenant").

and

Mr and Mrs G Ferguson
per Ryden Lettings,
100 Hanover Street,
Edinburgh,
EH2 1DR
("the landlords").

The Committee's Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the landlords had complied with the duty imposed by Section 14(1) (b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, and taking account of the written evidence before it, the Committee unanimously determined that the landlords had complied with the duty imposed by Section 14 (1) (b).

The Background

- 1. In February 2009 the tenant applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the landlords had failed to comply with the duties imposed by Section 14(1) (b) of the Act.**

2. Following receipt of the tenant's application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee in accordance with Section 22(1) of the Act.
3. The Committee served Notice of Referral on the landlords and the tenant in accordance with the terms of Schedule 2, Paragraph 1 of the Act.
4. The Committee inspected the property on 15 June 2009 at 9.45 am. Mr Watt and Mr D Rigby were present during the inspection. The landlords were represented at the inspection by Mr B Rothwell and Ms F Docherty. Mr Watt and Mr Rigby both attended the Hearing as did Mr Rothwell and Ms Docherty.

The Application

5. In the application Mr Scott submitted that the Repairing Standard had not been met on account of the following issues:
 - The front and back door were extremely draughty and not wind tight.
 - The temperature control for the hot water was not functioning properly in that the hot water had to be on at the same time as the heating. Moreover the hot water was scalding and the Property was very expensive to heat.
 - The roof light in the stair well was draughty and leaked.
 - The roof light in the cupboard leaked and appeared to be insecure.
 - Most of the windows had been painted shut and some had no locks or handles.
 - The lamps under the kitchen unit did not work.
 - One of the large cupboard doors in the kitchen was loose and off its hinges.
 - The curtains in the dining room were torn and hanging off the rails. The curtains in the main bedrooms were "sticky" and the hooks were starting to break off.
 - The walls in the rear bedroom required cleaning and redecoration.
 - There was a large hole under the dining room window which was a source of draughts and could be a point of entry for vermin.
 - When a number of appliances were being used in the upstairs bedroom, the circuit breaker tripped.

The Inspection

6. In the course of the inspection, Mr Watt asked the Committee to note that whilst the windows in the living room had been "freed up", most of the windows in the property were not windproof and consequently the property was cold and expensive to heat. Mr Watt told the Committee that when he took possession of the property the kitchen window had been leaking. Efforts had been made to seal this window using foam but this had been of limited success. He advised the Committee that insulation of the kitchen roof/ceiling would reduce heat loss. In regard to the central heating system, Mr Watt reminded the Committee that hot water could only be heated when the central heating system was operating. Consequently if hot water was required but the central heating was not, it was necessary to turn off all the radiators. The Committee were also reminded that the central heating system was expensive to run, the temperature of the hot water could not be controlled and the water was frequently scalding. This presented a risk to the elderly and to children.
7. Mr Watt advised that works had been carried out to remedy the defects in the roof light in the stair well.

The Hearing

8. A Hearing was held in Carrickvale Community Centre immediately after the inspection. As indicated, Mr Watt and Mr Rigby attended the Hearing as did Mr Rothwell and Ms Docherty on behalf of the landlords.
9. The Chairman reminded the parties of the issues which the Committee were required to consider and determine.
10. Mr Watt informed the Committee of the background to the application and confirmed that a number of the issues detailed in the application had now been resolved. The outstanding matters concerned the windows and the central heating/hot water system. Mr Watt accepted that the central heating had a current Safety Certificate and was in proper working order.
11. Mr Rothwell made a number of documents available to the Committee at the Hearing. These documents were also made available to Mr Watt and Mr Rigby who were given some time to consider them. The documents included a Report of 31 March 2009 from Sandy Brown (Joiner), a letter of 11 June 2009 from Fusion Works Reactive, invoices dated 30 January 2009, 26 February 2009 and 1 April 2009 all from Fusion Works Reactive and a Gas installation Safety Record.

Summary of the issues

12. The issue to be determined by the Committee was whether the landlords had complied with the requirements of the Act in ensuring that the property met the Repairing Standards.

Findings of fact

13. The Committee found that the landlords had addressed and resolved a number of the issues raised by the tenants in their application. The Committee found that the Repairing Standard had been met.

Reasons for the decision

14. It was clear from the inspection of the property (and from the evidence at the Hearing) that some works had been carried out on the windows and that most of the windows had been "freed up." The Committee found that there were no significant gaps between the windows and the window frames. The glass in all the windows was intact. The Committee found no evidence that water was penetrating the windows or the window frames. Whilst the windows and the window frames were dated, it appeared to the Committee that they had been reasonably well maintained, were in a reasonable state of repair and were wind and watertight. As indicated, the Committee had before it a Report from Sandy Brown (Joiner). Whilst accepting that this Report had been made available at the request of the landlords, nonetheless the Report supported the Committee's conclusions that the sash and case windows in the property were in a reasonable state of repair and in proper working order. They met the Repairing Standard.
15. In relation to the central heating system the Committee noted that a number of works had been completed. This included the replacement of a programmer and thermostatic radiator valves. It was also noted that the gas boiler, gas fire and gas hob had been serviced in March 2009. Moreover a Gas Installation Safety Check had been carried out on 23 February 2009 when it had been found that the installation was safe to use. As indicated, Mr Watt accepted that the installation had a current Safety Certificate and was in proper working order. The Committee accepted that the central heating system was "an older generation" system and did not doubt Mr Watt's claims that the system was expensive to run. The Committee accepted that a modern heating system would be more economical to operate and be more efficient. It was clear from Mr Watt and from the Report of 11 June 2009 from Fusion Works Reactive that water could only be heated when the central heating system was operating. The Committee accepted that this resulted in a degree of inconvenience to Mr Watt. However this was the manner in which the installation was designed to operate. It was clear to the Committee that the installation for the supply of gas, space heating and hot water was in a reasonable state of repair and was in proper

working order. This conclusion was supported by the Repairs/Safety Record of 23 February 2009.

16. In regard to the issue of the scalding water, the Committee noted that a time control switch had been fitted and that the temperature of the water could be controlled by this device or by turning the water heater off.
17. Given that Mr Watt accepted that the other issues detailed in the application had now been addressed, the Committee concluded that the Repairing Standard had been met.
18. The decision of the Committee was unanimous.

Right of Appeal

19. A landlord(s) or tenant aggrieved by the decision of a PRHP 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. 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.

Signed..... **R Handley** Date..... *6 July 2009*
Chairperson