



**Determination by Private Rented Housing Committee**

Statement of Reasons for Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 24 (1) of the Housing (Scotland) Act 2006

Case Reference Number: PRHP/G74/211/11

Re:- Property at 22 Salisbury ,East Kilbride, G74 3QE ("the property")

Land Register Title Number:- **LAN38884**

The Parties:-

Mr Julie Brydson, formerly residing at 22 Salisbury, East Kilbride, G74 3QE ("the tenant")

And

Joseph McEwan, residing at Highfield Farm, St Quivox, Ayr, KA6 5HQ ("the landlord")

**The Committee comprised:-**

Mr James Bauld - Chairperson

Mr Thomas Keenan - Housing member

**Decision**

The Committee unanimously decided that the property complied with the Repairing Standard Set out in Section 13 of the Housing (Scotland) Act 2006 ("the 2006 Act") and that the Landlord had not failed to comply with any of the duties imposed upon the Landlord by Section 14 of the same Act.

## **Background**

1. By application dated 6 December 2011, the tenant applied to the Private Rented Housing Panel ("PRHP") for a determination that the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the 2006 Act.
2. The application made by the tenant stated that the tenant considered the Landlord had failed to comply with the duty to ensure the house met the repairing standard and in particular the house suffered from dampness and condensation.
3. The tenant had provided evidence of notification of these defects to the Landlord at the address given in the Tenancy Agreement. Notification had been made via correspondence to the Landlord on a number of dates including a letter dated 6 December 2011 written on behalf of the tenant by Debbie Docherty of South Lanarkshire Council Central Homelessness Service at Cambuslang Gate, 27 Main Street, Cambuslang, G72 7EX. Copies of relevant letters were produced by the tenant.
4. The President of the PRHP decided to refer the application under Section 22 (1) of the 2006 Act to a Private Rented Housing Committee ("the Committee"). On 19 January 2012 the Committee served notice of referral under and in terms of the 2006 Act upon the parties. The notice of referral to the tenant was addressed care of their representative, Miss D Docherty at South Lanarkshire Council, Cambuslang Gate, 27 Main Street, Cambuslang, G72 7EX. In accordance with the terms of Paragraph 13 of the PRHP (Application and Determinations) (Scotland) Regulations 2007, the service of any form of communication upon the known agent of a party is deemed to be service upon that party.
5. The Committee were appointed to inspect the property on the morning of 4 April 2012. The Committee was intended to comprise of three members including Mr James Bauld, Chairperson, Mr Kingsley Bruce, Surveyor Member and Mr Thomas Keenan, Housing Member. Mr Bruce was unable to attend the inspection. The remaining members of the Committee proceeded with the inspection and the Hearing.

## **Evidence**

6. The evidence before the Committee consisted of the application form by the tenant, copy Tenancy Agreement, extract of title from the Land Register, various pieces of correspondence between tenant and Landlord relating to issue of claimed disrepair and copy documents produced by Landlord and tenant in response to the PRHP.

## **Summary of issues**

7. The issues complained of by the tenant in the application before the Committee can be summarised as being complaints with regard to dampness and condensation within the property and in particular dampness within the back bedroom, living room and the bathroom. There were also complaints that windows within the child's bedroom and the living room had gaps.
8. During the course of the inspection the tenant was not present nor represented. The Landlord was present. During the course of the inspection the Landlord confirmed that the tenant had vacated the property in December 2011. The property was not let but the Landlord was advertising it as available to let.

## **The Hearing**

9. The Landlord attended the Hearing. The tenant did not attend nor was represented. At the Hearing the Landlord indicated that in his view the property was in a proper state of repair and that there were no difficulties with it. He disagreed with the tenant's view that the property suffered from dampness and condensation and indicated that it had been previously let to other tenants and no such problems had ever been intimated to him.

## **Findings of Fact**

10. Having considered all the evidence the Committee finds the following facts to be established:-
  - a. The subjects of let comprise a flatted dwellinghouse in a four storey building. The building is approximately 50 years old having been constructed in or around 1960. The building was originally constructed by East Kilbride Development Corporation and would have originally been let as a public sector tenancy. The building is four stories in height and the particular flat is located on the second floor. Access to the flat was gained from a common close. The flat itself consisted of a living room with a window to the back of the building and the side of the building, two bedrooms each with a window to the side and kitchen and bathroom, each of which had windows to the side of the building. There was also a small hallway in the property.
  - b. The property is believed to be of concrete and brick construction.
  - c. The Committee in its inspection could find no evidence of any substantial disrepair within the property. The property appeared to be in a reasonable state of repair. The members of the Committee carefully checked the windows within the property and found that the windows appeared to be functioning and that there appeared to be no significant gaps which would be causing any significant drafts. The property was fully double-glazed and the kitchen and bathroom within the property appeared to be recently refurbished. The Committee could find no evidence to support any of the tenant's allegations relating to dampness and/or condensation. In particular the Committee noted that at the time of its inspection there was no evidence of condensation on any of the windows within the property nor any evidence of dampness and/or mould within the property. The property had an electric central heating system.
11. The Committee could find no evidence of any failure to meet the repairing standard or any failure to meet any of the duties incumbent upon the Landlord.

## **Reasons for decision**

12. The Committee had carefully inspected the property and found no evidence to support any of the allegations made by or on behalf of the tenant. The tenant was not present during the inspection. The tenant was not represented during the inspection. The tenant was neither present nor represented at the Hearing. At the time of inspection, the Committee took the view that the property was in a proper state of repair which more than adequately met the repairing standard.
13. The Decision of the Committee to dismiss the application was unanimous.

**Rights of Appeal**

- 14. A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 28 days of being notified of that decision.
- 15. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP of the Committee which made the decision.

**Effects of Section 63**

- 16. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.
- 17. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed, **J Bauld** .....

Date *24 April 2012* .....

James Bauld, Chairperson

Signature of Witness..... **G Williams** .....

Date *24/4/12* .....

Name: *GILLIAN WILLIAMS*

Address: 7 West George Street, Glasgow, G2 1BA

Designation: *SENIOR COURT ADMINISTRATOR.*