



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

Title Number ELN13972

prhp/EH32/212/12

Re: The residential dwellinghouse at

**42 Blink o'Forth
Prestonpans
East Lothian
EH32 9GA**

("the Property")

The Parties:-

**Ms Tracey Dickson
resident at the Property**

("the Tenant")

and

**Mr Shaun Clancy and Mrs Susan Clancy
22 Herons Way
Pirbright
Surrey
GU24 0NS**

("the Landlords")

The Committee comprised:

Mr Ron Handley – Chairperson
Mr David Godfrey – Surveyor
Mr John Blackwood – Housing Member

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 evidence before it, unanimously

determined that the Landlords had complied with the duty imposed by Section 14(1) (b).

Background

1. On 5 November 2012 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.

The Application

3. In her application the Tenant alleged that the Landlords had failed to comply with their duty to ensure that the Property met the Repairing Standard (as defined in the Act). It was submitted that the Landlord had failed to ensure that the Property was wind and water tight and in all respects reasonably fit for human habitation. It was also submitted that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water were not in a reasonable state of repair and not in proper working order.
4. In particular the Tenant submitted in her Application Form that:
 - (i) there was a large gap down the right hand side of the front door which was draughty and cold;
 - (ii) the windows needed to be adjusted and were draughty;
 - (iii) the toilet flush in the downstairs WC was broken.

The Evidence

5. The Committee had before it documents which included Land Register documents, a copy of the Application Form, responses from the Tenant and the Landlords, copies of various e-mails and invoices and copy photographs.

The Inspection

6. The Committee inspected the Property on 25 February 2012 at 10.00am. The Tenant was present at the inspection as was Mr Clancy (the Landlord).

The Hearing

7. A Hearing was arranged for after the inspection at 11.00am in the Pennypit Centre, Rope Walk, Prestonpans. The Tenant attended the Hearing as did Mr Clancy.

8. The Chairman welcomed the parties to the Hearing and reminded them of the issues to be considered by the Committee.
9. The Tenant accepted that the front door had been replaced and that the flush in the downstairs WC had been repaired and was in proper working order. She also accepted adjustments had been made to the windows. However although these adjustments had remedied the problems in some of the windows, others were still draughty. She explained that neighbours had been experiencing similar problems.
10. The Landlord told the Committee that the windows in the Property were about five years old. He and his wife had previously lived in the Property for a period of about 6 months. During that time they had not had any particular problems with the windows.

Summary of the issues

11. The issue to be determined by the Committee was whether the Landlords had complied with the requirements of the Act to ensure that the Property met the Repairing Standard.

Findings

12. The Committee found the following facts to be established:
 - Around five years ago the Tenant and the Landlords entered into a Tenancy Agreement that related to the Property.
 - The Property is a three-storey dwelling house and comprises a kitchen, living room, three bedrooms and bathroom. The Property was built in 2007.
 - The Property is heated by a gas central heating system.
 - The front door of the Property has recently been replaced and is wind and watertight.
 - The flushing mechanism in the downstairs WC is in proper working order.
 - The Property has double glazed windows which are about five years old. The seals on the windows are not damaged and the windows fit well within the window frames. They are in a reasonable state of repair and meet the Repairing Standard as defined in the Act.

Reasons for the Decision

13. As indicated, the Tenant submitted in her Application Form that the front door had a gap in it and was draughty. However it was clear from the inspection that repairs had been affected to the front door and that it was in proper working order. This was accepted by the Tenant. We had no

hesitation in finding that the front door of the Property was in a reasonable state of repair and in proper working order.

14. Similarly it was clear at the time of the inspection that the flushing mechanism in the downstairs WC had been repaired. This was confirmed in the copy invoices made available to the Committee. The Tenant also confirmed that the WC was in proper working order. We found that the flushing mechanism in the upstairs WC was in a reasonable state of repair and in proper working order.
15. As indicated, in the course of the Hearing the Tenant explained that "adjustments" had been made to the windows and she confirmed that this had resolved the problems with some of the windows. However some of the other windows were still draughty – particularly those in the living room, the main bedroom and the upper hall. On inspection we found no evidence to suggest that the seals in the windows were damaged or ineffective. The windows appeared to fit well within the window frames. The window and the frames are of a relatively modern design. The Property is situated near the coast in a location that is likely to be affected by winds. It appeared that other similar houses had the same draught problems. Taking the evidence in the round and taking account of the locality and age of the Property, we found that the windows were in a reasonable state of repair and in proper working order. They meet the Repairing Standards.

Decision

16. The Committee determined that the Landlord had complied with the duty imposed by section 14(1)(b) of the Act.
17. The decision of the Committee was unanimous.

Right of Appeal

18. 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

19. 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 9 March 2013
Chairperson