

Determination by The Private Rented Housing Committee

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

Land Register Title Number: KNC19370

Property at 12 Gardenston Street, Laurencekirk, Aberdeenshire ("the Property")

The Parties:-

Ms Pauline Paterson, formerly of 12 Gardenston Street, Laurencekirk and now at 4

Brae Cottages, Laurencekirk ("the Tenant")

Miss Marion Cook, 7 Barns of Craig Steading, Ferryden, Montrose ("the Landlord")

Background

1. By application dated 2 February 2010, the Tenant applied to the Private Rented Housing Panel for a determination as to 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 by the Tenant stated that she considered that the Landlord had failed to comply with the duty to ensure that the house was wind and water tight and in all other respects reasonably fit for human habitation, that the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order, that 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 any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
3. The Private Rented Housing Committee served notice of referral in terms of Schedule 2 paragraph 1 of the Act upon both the Landlord and the Tenant.
4. Following service of the notice of referral, the Tenant and the Landlord made written representations.
5. The Private Rented Housing Committee inspected the property on 11 May 2010. The Landlord was present and accompanied by her partner during the inspection. Following the inspection of the property the Private Rented Housing Committee held a hearing at The Venue, 84 High Street, Laurencekirk. The Tenant was in attendance together with her partner. The Landlord did not attend. The Committee heard representations from the Tenant and her partner.

Inspection

6. The Committee inspected all the issues raised by the Tenant in her application of 2 February 2010. From the inspection it was clear that the property was fitted with gutters and downpipes which appear to be in a good state of repair although there was one area of guttering just above the back door that still does not appear to be water tight. From inspection there appeared to be a small amount of water in the gutters but nothing of significance; there had been rainfall in the preceding 48 hours.
7. The Committee inspected both the shower in the en suite bathroom and the shower in the bathroom adjacent to the hall. The Landlord advised that the shower in the en suite bathroom had been completely replaced and the tiles had been replaced by wetwalls. There was no obvious evidence of any continuing problem although the

damp meter showed that there was still residual damp in the area adjacent to the shower. The shower in the bathroom off the hall had had the tiles replaced by wetwalls and there was no evidence of any problem here.

8. In connection with the floorboards and skirtings in the hall, the Landlord advised that these had been replaced following the leaking from the en suite shower. The patch on the wall in the hall had also been repaired. There was no longer any evidence of damp.
9. The bath has been re-sealed.
10. In connection with the front door, on inspection this appeared to fit well and there was no evidence that it was in any way substandard.
11. In connection with the two old front windows, one of which was in the bedroom and one in the lounge, these appeared to be a proper state of repair. There was no misting between the double glazing panels and no evidence of any condensation. There was no damp detected in the area of the windows.
12. The pavement was uneven at the point where the pavement met the boundary of the Landlord's property.
13. In connection with the retaining wall in the garden, this was a new wall in a good state of repair.

Representations by the Tenant at the Hearing

14. Representations were made by the Tenant and her partner, David Hoyle. In connection with the gutters and downpipes, the Tenant advised that when she moved in in July 2009, there were no gutters on the property at all and she showed the Committee photographs of this. She advised that she was told that everything would be done within days but it took a long time and even once gutters were put on it was then some time later before downpipes were attached. Even after this was done, water still poured out of the gutters at the back and there was also a problem with damp in the master bedroom, lounge and en suite bathroom. The Tenant stated that there was no proper run on the gutters.
15. In respect of the shower, the Tenant advised that the en suite shower was leaking which had led to the hall floor and skirtings being warped and severely damp. The Tenant advised that both showers in the property were initially tiled and that the shower in the en suite leaked very badly.
16. In connection with the bath, the Tenant explained that when this was first used, it dropped and this broke the seal on the grouting. This was not fixed.
17. With regard to the front door, the Tenant advised that originally there was no letterbox in it at all and then one was cut out but there was only a letterbox put on on the outside not the inside and she had to put her own letterbox on the inside. She indicated that the joiner did fix the front door but it had not been treated properly and there was a constant problem with condensation.
18. In connection with the two old front windows, the Tenant advised that there were severe problems with puddles of condensation occurring every day and submitted that the glazing on the windows had failed. Photographs were shown.
19. In connection with the pavement, the Tenant showed the Committee photographs of the dangerous state the property had been in with rubble lying in the front garden. She indicated that she thought the problem with the edge of the pavement had occurred because the Landlord had ripped out the hedge.

20. With regard to the retaining wall in the garden, the Tenant submitted that as this wall was more than one metre high it was supposed to have safety rails on it and it did not.
21. The Tenant advised that she understood that the Landlord had now carried out the work as there was a new Tenant in the property. She stated however that this was not done when she was there. In response to a question from the Surveyor member, the Tenant indicated that she did not open the bedroom window during the time that she was in the property as it was during the winter months. She indicated that the wardrobe in the bedroom was mouldy and there were also problems with one of the sockets in the lounge due to leaking from an outside wall.

Decision

22. The Committee accepted on the basis of the Tenant's representations and the photographs lodged that there had been problems with the property during the time that the Tenant had lived in it. The Committee considered it unfortunate that there had been a number of issues with the property which had not been sorted out while the Tenant was there. The Committee however had to consider the property at the date of the inspection. From the inspection it was apparent to the Committee that most of the issues raised by the Tenant had now been rectified by the Landlord.
23. In connection with the shower in the en suite, this has clearly either been replaced or repaired and now has wetwalls rather than tiles. There was no evidence on inspection of there being any continuing problem with the shower leaking. There was some residual damp in the area next to the shower but it may well be that this is as a result of the previous leaking of the shower which according to the Landlord was only replaced a week ago. The shower off the hall also now has wetwalls and there was no evidence of any damp problem in this bathroom.
24. In connection with the floor and skirtings in the hall, from the inspection it was clear that the floor has been repaired, the wall has been fixed and the skirtings have also been replaced. There was no evidence of any ongoing damp problem.
25. In connection with the front door, from inspection it appeared that this was working normally and was a standard door. The Committee noted that it opened into a hall rather than directly into a living room. The Committee also noted that there was a letterbox now fitted to the door and it also had a draught excluder.
26. In connection with the gutters and downpipes, they were all in place and appeared to be in a good state of repair apart from one slight gap in the guttering above the back door. The Committee noted that the gutters do not have a good fall on them but there was no evidence of any significant problem as a result of this.
27. In connection with the pavement, the Committee consider that this is not within the curtilage of the property and would not fall with the Repairing Standard.
28. In connection with the retaining wall, the Committee is unaware of any requirement in the Building Regulations to erect safety fencing or similar on domestic/retaining gardens wall. The garden wall appeared to be in a good state of repair and did not appear to be unsafe.
29. In connection with the two older front windows, there was no evidence on inspection of any condensation problem. The frames were not rotten and the glazing appeared to be in good condition. The Committee noted that there had been a severe problem with condensation when the Tenant was in the property but the Tenant accepted in her evidence that she had not ventilated the bedroom by opening the window during the winter months. If the shower in the en suite was used regularly during the winter and the property was not properly ventilated, this would cause a condensation problem. The situation was probably made worse by the fact that the shower was

leaking creating additional humidity and the severity of the winter. The Committee however did not consider that there was anything wrong with the two old windows.

30. In connection with the bath, this has now been resealed and the Committee do not consider that there is any issue here.
31. In the circumstances given that the Committee must consider the state of the property as it is at present, the Committee did not consider that the Landlord was in breach of the Repairing Standard and did not consider it necessary to make a Repairing Standard Enforcement Order.

Right of Appeal

32. **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

33. 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 Lea

Signed:

Date: 19 May 2010