

## 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**  
Flat 0/1, 68 Balcarres Avenue  
Glasgow G12 0QG  
("the Property")

#### **The Parties:-**

Miss Laura MacCallum  
residing formerly at the Property  
("the Tenant")

and

BBA Properties  
Per Brunswick Residential Letting  
39 Craignethan Road  
Giffnock  
Glasgow  
G46 6SJ  
("the Landlord")

#### **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 an application dated 15<sup>th</sup> April 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 8<sup>th</sup> July 2009. The Landlords were represented at the inspection by Mr Richard Cowan and Mr Colin Mackenzie of Brunswick Residential Lettings in their capacity as agents for the Landlords. The inspection had been arranged as an opportunity for the Committee to view the Property. No evidence was taken from any party during the inspection.

## **The Application**

- 5 In the application the Tenant submitted that the Repairing Standard had not been met as the drainage in the bathroom from both the bath and the sink were not operational. The Tenant submitted that the condition of the drains was accordingly unsanitary and the Landlords had failed to maintain both internal and external drains. The Tenant submitted that accordingly the installations in the house for the supply of water and for sanitation were not in a reasonable state of repair and in proper working order.

The Tenant further complained that during her tenancy of the lease she was not given a key to enable her to access the veranda to the Property which was part of the subjects of let.

The Tenant further complained that the two radiator heaters within the Property were not working properly.

The Tenant made a number of complaints regarding the management of the property by the Landlords' managing agents. The Tenant further complained that the Property had not met the Repairing Standard at the start of the tenancy or during the tenancy itself.

## **The Inspection**

- 6 In the course of the inspection the Committee noted that the drainage from the bath and the sink in the bathroom in the Property was operating correctly. Members of the Committee ran water through the drains for a reasonable period of time and were satisfied that, although slow, the drainage did clear within a reasonable time and there was no evidence of any backing up.

The Committee noted that thermostatic valves had been fixed to the two radiators which the Tenant had complained were not heating correctly during the tenancy.

The Committee noted that the Landlords had now provided a key for the door to allow access to the veranda at the Property.

## **The Hearing**

- 7 A hearing was held at the offices of the PRHP, 142 West Campbell Street, Glasgow. In advance of the hearing the Tenant had advised that she was not willing to attend the hearing in the presence of the Landlords' agents. Accordingly it had been agreed with the Landlords' agents that they would not attend the hearing and if evidence was required from them this could be taken over a telephone link should that prove necessary.

- 8 The Tenant attended the Committee hearing and was accompanied by Ms Carol Anne Robertson.

- 9 At the start of the hearing the Chairman advised the Tenant of the issues which the Committee were required to consider and determine. In particular the Chairman explained that the Committee could not hear evidence or consider complaints in relation to the management of the Property.

The Tenant confirmed that she had vacated the property on or around 3<sup>rd</sup> June 2009.

- 10 The Tenant informed the Committee of the background to the application.

The Committee noted the Tenant's evidence that the drains in the bathroom of the Property were not operating correctly during her term of tenancy. At the same time the Committee advised the Tenant that they were concerned with the condition of the property as at the date of the hearing. The Committee had themselves inspected the Property and were satisfied that the drains in the bathroom were now operating correctly.

- 11 The Tenant accepted that the Landlords had carried out the necessary repairs to the radiators during her period of tenancy.

- 12 The Tenant accepted that the Landlords had given her a key to allow access to the veranda during the period of her tenancy.
- 13 The Tenant asked the Committee to consider whether the Property met the Repairing Standard at the start of the tenancy and during the course of the tenancy and further raised the issue of how the Landlords' managing agents had managed the property. The Tenant was advised that the only issue for consideration by the Committee was whether or not the property met the Repairing Standard.

#### **Summary of the Issues**

- 14 The issue to be determined by the Committee was whether or not the Landlords had complied with the requirement of the Act in ensuring the Property met the Repairing Standard.

#### **Findings of Fact**

- 15 The Committee found that whilst there was evidence to suggest that the Repairing Standard had not previously been met during the course of the tenancy of the Tenant's occupancy of the Property, the Landlords had addressed and resolved all issues raised by the Tenant in her application. The Committee accordingly found that the Repairing Standard had been met.

#### **Reasons for the Decision**

- 16 It was clear from the inspection of the property that the Landlords had carried out the necessary works to address problems with the drainage in the bathroom. The Landlords had also fitted thermostatic valves to radiators and had supplied a key to the veranda door. The Tenant had accepted in her own evidence that the problems with the radiators and the problem with the access to the veranda had been resolved during her period of occupancy.
- 17 The only outstanding issue was the issue of the drainage within the bathroom of the property. During the Committee's inspection they had been satisfied that water drained in a satisfactory manner from both the bath and the sink in the bathroom of the property.
- 18 Given that all the repairing issues complained of by the Tenant had now been addressed, the Committee concluded that the Repairing Standard had been met.
- 19 The decision of the Committee was unanimous.

#### **Right of Appeal**

- 20 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**

- 21 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 28 days from the day on which the appeal is abandoned or so determined.

# A Cowan

Andrew S Cowan, Chairperson  
14<sup>th</sup> July 2009

# C Miller

Witness

(Sign)

Carol Anne Millar ..... (print name)

Address: 7 West George Street  
Glasgow G2 1BA