

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/G31/25/10

Re:- Property at Flat 2/2, 48 Quarryknowe Street, Glasgow, G31 5LE ("**the property**")

Land Register Title Number:- **GLA173612**

The Parties:-

Miss Dee Comfort Sebele, residing at 48 Quarryknowe Street, Flat 2/2, Glasgow, G31 5LE ("**the tenant**")

And

Bernard McKay, c/o Infiniti Properties Management Limited, 1st Floor, 65 Bath Street, Glasgow G2 2BX ("**the landlord**")

The Committee comprised:-

Mr James Bauld	- Chairperson
Mr Michael Links	- Surveyor member
Ms Susan Brown	- 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 29 January 2010, 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) of the 2006 Act.
2. The application made by the tenant stated that the tenant considered that the landlord had failed to comply with his duty to ensure that the house met the repairing standard and in particular that the house suffered from a detailed list of defects listed in the application.
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 email to the landlord's agents on a variety of dates ranging from 22 December 2009 to 16 January 2010. Copies of the emails were produced by the tenant.

4. The President of the Private Rented Housing Panel decided to refer the application under Section 22 (1) of the 2006 Act to a Private Rented Housing Committee ("the Committee").
5. On 3 March 2010, the Committee served notice of referral under and in terms of Schedule 2, paragraph 1 of the 2006 Act upon the parties. The notice of referral to the Landlord was served on him care of his agent, Infiniti Properties Management Limited. In terms of paragraph 13 of the PRHP (Application and Determinations) (Scotland) Regulations 2007, service of any formal communication upon the known agent of a party is deemed to be service upon that party.
6. The Committee inspected the property on the morning of 26 May 2010. The tenant was not present during inspection. The Landlord's agents were represented by Ms Anne Hume who was present during the inspection.

Evidence

7. The evidence before the Committee consisted of:-
 - Application form;
 - Copy Tenancy Agreement;
 - Extract of title from the Land Register;
 - Various emails between tenant and Landlord relating to issues of claimed disrepair.

Summary of issue

8. The issues complained of in the application before the Committee can be summarised as follows:-
 - Dampness within the property;
 - Windows not closing properly;
 - Main bedroom window falling off hinges;
 - Heaters not working;
 - Bathroom fan not working;
 - Bathroom hot tap broken;
 - Fire alarm not working;
 - Beds unsuitable;
 - Passage lights wrongly timed

During the course of inspection, the tenant was not present. The Landlord's representative had indicated that the tenant had vacated and left the property and the property was now occupied by a new tenant.

The Hearing

9. The tenant did not attend the Hearing. Mr Scott Hume from the Landlord's agents attended the Hearing as the representative of the Landlord.
10. At the Hearing the Landlord's agent was asked if he wished to add anything further to what had been viewed by the Committee or to add anything further to the written representations already made. The Landlord's agent indicated that he did not wish to do so.

Findings of Fact

11. Having considered all the evidence the Committee found the following facts to be established:-
- a) The subjects of let comprised a modern flat in a relatively new building. The building extends to 3 storeys in height and the flat was located on the second floor. The building is considered to be approximately 10 years old. The flat consisted of a living room, two bedrooms, kitchen, bathroom and hallway. The Committee could find no evidence of any substantial disrepair within the property. The property appeared to be in excellent order. The Committee carefully checked the windows within the property and found they were all functioning. The Committee could find no evidence to support any of the tenant's allegations relating to disrepair
 - b) The Committee could find no evidence of any failure to meet the repairing standard or the duties incumbent on the landlord.

Reasons for Decision

12. The Committee had carefully inspected the property and could find no evidence to support any of the allegations made by the tenant. The tenant was not present during the inspection. The property was in a state of repair which more than met the repairing standard.
13. The decision of the Committee was unanimous to dismiss the application.

Rights of Appeal

14. A Landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 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 7 June 2010.

James Bauld, Chairperson

Signature of Witness **L McManus**

Date 7/6/10

Name, address and occupation of the witness (please print):-

Laura McManus (Secretary)
7 West George Street, Glasgow, G2 1BA