



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

Reference number:- PRHP/RP/15/0145

Re: Property at 14 Brackenhill Road, Law Village, Carluke, ML8 5LT, bounded on the north east by Brackenhill Road, Law, part of farm and lands of Brackenhill extending to One hundred and forty three and sixteen one hundredths of an acre in the Parish of Carluke and being the subjects more particularly described in the Feu Charter by Drew Peacock Builders Limited to James Carr Watson and Jeanie Goodwin Watson recorded in the Division of the General Register of Sasines for the County of Lanark on Second September Nineteen hundred and seventy ("the property").

The Parties:-

Application received from Miss Sandi Kerr residing latterly at the property ("the Tenant")

Mr Alistair Raybould, residing at 61 Thrashbush Crescent, Wishaw, ML2 8LW and Miss Nicola McLachlan, residing at 17 Old Road, Elderlee, Johnstone, PA5 9EQ ("the Landlords")

Decision

The Private Rented Housing Committee (the Committee"), having made such enquiries as it saw fit for the purpose of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property concerned, and, taking account of the evidence submitted by both the Landlords and the Tenant, determined that the Landlords have not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Committee consisted of

Mr Andrew Cowan – Chairperson;

Mr Andrew Taylor – Surveyor Member; and

Mr Scott Campbell – Housing Member.

Background

1. The Tenant made an application to the Private Rented Housing Panel dated 29 April 2015, in terms of Section 22 of the Housing (Scotland) Act 2006 ("the Act"), in which she made a complaint that the property does not meet the repairing standard.
2. By letter dated 30 June 2015, the President of the Private Rented Housing Panel intimated a decision to all parties that the application made by the Tenant had been referred to a Private Rented Housing Committee ("the Committee") for determination.
3. Arrangements were made for the Committee to inspect the property on 17 August 2015 and to hold a hearing on the same date in relation to the application. Neither the Tenant nor the Landlords attended the inspection or the hearing in relation to the application.
4. By letter dated 30 September 2015, the parties were advised that the Committee had made further arrangements to inspect the property on 26 October 2015 and to hold a hearing on the same date.
5. On 7 October 2015, the Tenant emailed the offices of the Private Rented Housing Panel to advise that she was no longer resident at the property, as the Landlords had served her with a Notice to Quit on 14 September 2015.
6. In terms of Paragraph 7(1) of Schedule 2 to the Act the Tenant is to be treated as having withdrawn her application if the tenancy concerned is lawfully terminated. The Committee have determined that, in the circumstances described by the Tenant in her email of 7 October 2015, the application made by the Tenant is to be withdrawn.

7. The Committee then considered the application and whether the said application should continue to be determined by the Committee or whether it should be abandoned, all in terms of Paragraph 7(3) of Schedule 2 of the Act.
8. Given the nature of the complaints made by the Tenant within her application, the Committee considered the application should continue to be determined by them. In reaching their decision in this respect the Committee took account of the potential risk to the health and safety of future occupiers of the property due to the alleged repairs issues as raised by the former Tenant. In particular, the Committee noted that the former Tenant had complained that the property did not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. In addition the former Tenant had expressed concerns regarding the safety of the electrical systems within the property,
9. On 14 October 2015, the Committee made a decision to continue to consider the case and to make a determination in relation to the application.
10. Given that the Tenant has vacated the property, the Committee restricted consideration of the application to only those matters raised in the former Tenant's application which the Committee considered were issues of risk to the health and safety of future occupiers of the property.
11. The Committee only considered the following parts of the Tenant's application in which the Tenant had considered that the Landlords had failed to comply with the duty to ensure that the house met the repairing standard. The Tenant complained that:-
 - (a) the property did not have a smoke alarm;
 - (b) there was no electrical safety certificate for the property and that various white goods within the property had not been checked by an electrician; and

(c) that a light fitting was "hanging out the ceiling".

The Committee did not consider the Tenant's further complaints in relation to overflowing gutters and the lack of insulation within the property.

12. The Committee finally inspected the property on 26 October 2015. At that time, the Committee were given access to the property by Mr Alistair Raybould, one of the joint Landlords. Mr Raybould indicated at the time of the inspection that he did not wish to attend the hearing which had been arranged for later in that day. He also confirmed that, Miss Nicola McLachlan, being the joint Landlord did not wish to attend that hearing.
13. In the circumstances therefore the Committee proceeded with the inspection of the property, but there was no hearing in relation to the application as no parties wished to attend that hearing.
14. The inspection of the property was attended by Mr Alistair Raybould and the Committee Members.
15. At the inspection of the property, the Committee noted that suitable hardwired smoke detectors had been installed in the property. The Committee were therefore satisfied that, notwithstanding the complaint by the Tenant, as at the date of the inspection the property had satisfactory provisions for detecting fires and for giving warning in the event of fire or suspected fire as required by Section 13(1)(f) of the Act.
16. At the time of the inspection, Mr Alistair Raybould indicated that he held a current electrical installation condition report in respect of the property. Following the inspection, the Landlords' solicitors made available to the Committee a copy of an electrical installation condition report for the property dated 10 June 2015. The electrical condition report found that the electrical

installations within the property were in working condition. The Committee are satisfied that the terms of the electrical condition report are satisfactory for the purposes of the repairing standard and are sufficient to confirm to the Committee that the installations in the property for the supply of electricity are in a reasonable state of repair and in proper working order, as required by Section 13(1)(c) of the Act.

The Committee noted that the electrical installation condition report did make recommendations in relation to an upgrade of certain parts of the electrical apparatus in the property. The Committee accordingly recommend that the necessary works to comply with the recommendations of the electrical installation condition report are completed prior to (and in the event that) the property is to be re-let in the future. (The Committee did note that the Landlords have indicated that they intend to sell the property).

The Committee further noted that in the living room of the property a light fitting has been removed from the ceiling and that the electrical wires for that light fitting are hanging from the ceiling. The Committee recommend that a pendant light fitting is attached to the wiring so that it is safe and secure.

Decision

17. Having considered the written application of the Tenant and, having inspected the property, the Committee found that, as at the date of the inspection of the property, there was no evidence of continuing disrepair of a material nature as outlined by the Tenant in her application. The Committee were satisfied, as at the date of the inspection, that the property met the repairing standard in relation to those matters raised by the Tenant in her application where there were averments which could affect the safety of future occupants of the property. In the circumstances, the Committee have determined to dismiss the application.

18. The decision of the Committee was unanimous.

Right of Appeal

19. 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

20. 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.

A. COWAN

Signed
Andrew Cowan, Chairperson

..... Date

16 November 2015

L. MCMANUS

Witness

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