

**STATEMENT OF REASONS**  
*in connection with*  
**INSPECTION and HEARING**

**HELD ON : 26<sup>th</sup> August 2008**

**PROPERTY : 16A Froghall Avenue Aberdeen**

**1.0 The Parties**

The Landlord is Caversham Management Limited per their Scottish agent Ardent Lettings Limited.

The Tenant is Cuckoo Homestay Ltd and Marek Mrzyglod formerly of 16A Froghall Avenue Aberdeen.

**2.0 Background**

By application received 6<sup>th</sup> March 2008 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(i)(b) of the Housing (Scotland) Act 2006 ("the Act").

The application by the Tenant identified the following areas of disrepair which they considered that the Landlord required to remedy.

- Dampness in all rooms such as to render the house unfit for human habitation.
- Ineffective gas central heating.
- Peeling paintwork.
- Poor furniture

These works are hereinafter referred to as "the Tenants required works". Thus the Tenant considers the Landlord is in breach of paragraphs (a), (c), and (e) of the repairing standard as defined in Section 13 of the said Act.

The Applicant Tenant is no longer resident in the property.

**3.0 The Inspection**

The Committee attended at the property on the morning of 26<sup>th</sup> August 2008. The Tenant and the Landlord and the Landlord's agent were present. The Tenant was supported by his interpreter. The Committee inspected each of the Tenant's required works. The Committee's observations and the comments of parties where applicable are as follows ;-

- Our Surveyor member carried out dampness readings in all the rooms. All rooms except the smallest bedroom registered some dampness. We determined with the advice of our surveyor member that this dampness is as a result of condensation rather than disrepair.
- The Central heating system could not be tested however the Landlord produced a Gas Safety Certificate.
- The paintwork was seen to be fresh and clean
- The furniture was in a reasonable state of repair.

At the conclusion of the inspection the Tenant advised the property had been painted and some of the furniture renewed.

#### **4.0 The Hearing**

A hearing took place immediately following the inspection. At the Hearing the Tenant emphasised he had found the property to be damp over the winter months and that the Central heating radiators were never warm enough to heat the flat. A plumber had advised the radiators needed to be bled of air.

The Landlord advised the central heating system had now been fixed by bleeding the radiators and the property had been painted. He agreed there was some dampness in the flat but that no other tenants had complained. He felt any problem would be greatly alleviated if the property was properly ventilated by opening windows .

By way of background it was explained to Committee that the number of persons resident in the property during the time of the complaint was in excess of the number the landlord considered appropriate for the size of the property. The Landlord opined that excessive dampness could have been as a result of tenant misuse.

## **5.0 The Decision**

Committee considered submission made by the parties at the hearing, the whole written evidence, and observations made during the inspection.

The Committee determined as follows:-

The paintwork and furniture are of a reasonable standard and there is no breach of the repairing standard as regards s13(1)(e).

The gas central heating meets the safety standard. The Landlord tells us the system has been bled and the radiators should now perform more effectively. We accept this work has been undertaken. We are satisfied there is no breach as regards s13(1) c.

The dampness gave us considerable concerns. As stated above all rooms except the smallest bedroom registered dampness when objectively tested. Our surveyor member advised this dampness is as a result of condensation. While the cause of the condensation dampness in the property is not due to disrepair the statute sets the standard by reference to reasonableness of habitation thus works may be required to make the house habitable which would not normally be termed repair work.

The problem of condensation dampness can be alleviated if the property is properly ventilated. Any tenant has a common law duty to ensure the tenancy is 'aired and fired' . It was suggested by the landlord (although denied by the tenant) that ventilation was not carried out appropriately. We noted the only way to ventilate this flat would be to open the windows ( which would be a 'tough call' during an Aberdeen winter ) and we strongly recommend the Landlord to facilitate ventilation perhaps by providing dehumidifiers for general use and a humidistat controlled expel air system in the bathroom. After very careful consideration we determined that although there is evidence of some dampness, it was not, when inspected by us today, so severe as to render the property unfit for human habitation.

On balance we are satisfied there is no breach of s13(1)(a)

In reaching this decision the Committee have had regard to all the considerations required to be taken into account in terms of the Housing (Scotland) Act 2006.

## **Right of Appeal**

**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 this decision.**

**Effect of Section 63**

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 date on which the appeal is abandoned or so determined.

**A McCamley**

Chairperson P.R.H.P.

26/8/08.