



STATEMENT OF REASONS

ISSUED BY

THE PRIVATE RENTED HOUSING COMMITTEE UNDER SECTION 26(1) OF THE HOUSING (SCOTLAND) ACT 2006

PRHP/EH124/32/13

Re: The residential dwellinghouse at

**3/1 Dumbryden Grove
Edinburgh
EH14 2QP**

("the Property")

The Parties:-

**Mr Ricardo De Freitas
formerly resident at the Property**

("the Tenant")

and

**Mr Barry MacFarlane
11 Abbey Court
Inverness
IV3 8SN**

("the Landlord")

The Committee comprised:

**Mr Ron Handley – Chairperson
Mr Ian Mowatt – Surveyor
Ms Mary Lyden – Housing Member**

Background

1. On 20 February 2013 the Tenant applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act.

2. Following receipt of the application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee ("the Committee") in accordance with Section 22(1) of the Act.

The Application

3. In his application the Tenant alleged that the Landlord had failed to comply with the duty to ensure that the Property met the Repairing Standard (as defined in the Act). It was submitted that the Landlord had failed to ensure that the Property was wind and water tight and in all respects reasonably fit for human habitation. It was also suggested that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water were not in a reasonable state of repair and not in proper working order and that some of the fixtures, fittings and appliances were not in a reasonable state of repair or in proper working order.
4. In particular the Tenant submitted in his Application Form that:
 - (i) the boiler required to be repaired or replaced;
 - (ii) the windows required to be repaired or replaced;
 - (iii) the taps required to be repaired or replaced;
 - (iv) the front door required to be repaired or replaced;
 - (v) the oven required to be repaired or replaced.

The Inspection

5. The Committee inspected the Property on 3 June 2013 at 10.15hrs. The Landlord was not present at the inspection and not represented. The Tenant was present at the inspection and represented by Mr Martin Barnes, Edinburgh Housing Advice Partnership.

The Hearing

6. A Hearing was arranged to take place after the inspection at 11.00hrs in Thistle House, 91 Haymarket Terrace, Edinburgh. The Landlord did not attend the Hearing and was not represented. The Tenant was present at the Hearing and represented Mr Martin Barnes.

Findings

7. The Committee found the following facts to be established:
 - On 1 January 2011 the Tenant and the Landlord entered into a Tenancy Agreement that related to the Property.

- The Property is a three bedroom ground floor flat in a block of flats built around 1970.
- The Property was heated by a gas central heating system. The gas boiler was not in a reasonable state of repair and not in proper working order.
- The windows in the Property were double glazed. Other than the window in the small rear facing bedroom, the windows throughout the Property were in a reasonable state of repair and in proper working order. The external seals in the windows in the small rear facing bedroom were not in proper working order.
- The taps in the kitchen and in the bathroom were in a reasonable state of repair and in proper working order.
- The external front door (leading to the communal stairway) was in a reasonable state of repair and in proper working order.
- The oven was not in proper working order.

The Decision

8. in terms of their decision dated 14 June 2013, the Private Rented Housing Committee ("the Committee") determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and that the Landlord had failed to ensure that:-
 - (a) the Property was wind tight and in all other respects reasonably fit for human habitation;
 - (b) the installation for the supply of space heating was in a reasonable state of repair and in proper working order;
 - (c) some of the fixtures, fittings and appliances were in a reasonable state of repair or in proper working order.
9. The Committee issued a Repairing Standard Enforcement Order ("the RSEO"). In accordance with the RSEO the Landlord was required to carry out such works as were necessary for the purposes of ensuring that the Property met the Repairing Standard and that any damage caused by the carrying out of any work in terms of the RSEO was made good.
10. In particular the RSEO required the Landlord to:-
 - (a) replace the central heating boiler using a Gas Safe Registered Engineer and provide a Gas boiler Safety Certificate (CP12);
 - (b) replace the seals in the windows of the small rear facing bedroom;
 - (c) repair or replace the oven;

- (d) provide the Committee with a valid Landlord's Gas Safety Certificate which related to the Property.

11. The decision of the Committee was unanimous.

The Re-inspections

- 12. Re-inspections of the Property were carried out by the surveyor member of the Committee on 24 July 2014 and 10 November 2014. On both occasions it was decided that the appropriate works as required by the RSEO had not been executed.
- 13. On 25 June 2015 at 10.30am the surveyor member carried out a further Re-inspection of the property. The Landlord's agent, Ms Rachel Valentine of South Side Management, was present. No other parties attended the Re-inspection.
- 14. In the course of the Re-inspection (on 25 June 2015) it was noted that the Property was not tenanted and, as a result of damage from damp penetration from the flat above, was not in a habitable condition. The mains services to the Property had been disconnected.
- 15. At the time of the Re-inspection on 25 June 2015 none of the works required by the RSEO appeared to have been fully undertaken and the works largely remained outstanding. A replacement gas central heating boiler, as referred to in paragraph 10(a) of this Statement of Reasons appeared to have been installed although it was not in operation and was not tested, as a result of the mains services having been disconnected. The required Safety Certificate had not been produced. Furthermore the required works as detailed in paragraph 10(b) and 10(c) of this Statement of Reasons had not been carried out.
- 16. The Committee were advised that the Tenant had vacated the Property on 11 July 2014.

The Decision

- 17. A copy of a Report following the Re-inspection on 25 June 2015 was sent to the Landlord on 4 August 2015. The Landlord was invited to comment on the Report but no comments were received.
- 18. The Committee concluded that the Landlord had failed to comply with the requirements of the RSEO. Given that the Property was unoccupied, the Committee concluded that it was not appropriate to impose a Rent Relief Order. However the Committee determined that Notice be given to the City of Edinburgh Council that there has been a failure by the Landlord to comply with the RSEO in relation to the Property in terms of Section 26(1) of the Housing (Scotland) Act 2006.

Right of Appeal

19. A Landlord(s) or Tenant(s) aggrieved by the decision of a PRHP 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. 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.

Signed **R. Handley** Date 15 September 2015
Chairperson