



## **Determination by Private Rented Housing Committee**

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the committee")

Under Section 24(1) of the Housing (Scotland) Act 2006 ("the Act")

**Case Reference Number: PRHP/RP/14/0232**

**Re: 79 Scotstoun Road, Cowie, Stirling FK7 7AL ("the property")**

**Land Register Title No: STG59938**

**The Parties:-**

**Miss Cyndi McCormick, residing at the property ("the tenant")**

**Mr Jeremy Tucker, 24 Botha Street, Black Beach, Mackay 4740 Australia ("the landlord")**

**The committee: – Sarah O'Neill (Chairperson); Andrew Taylor (Surveyor Member) and Susan Brown (Housing member)**

### **Decision**

The committee, having made such enquiries as it saw fit for the purposes of determining whether the landlord has 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 all the available evidence, determines that the property complies with the repairing standard set out in section 13 of the Act, and that the landlord has not failed to comply with any of the duties imposed on him under Section 14 of the Act. The committee has therefore decided not to make a Repairing Standard Enforcement Order (RSEO) in terms of Section 24(2) of the Act.

The committee's decision is unanimous.

## Background

1. By application dated 1 October 2014, the tenant applied to the Private Rented Housing Panel ("the panel") for a determination that the landlord had failed to comply with his duties under Section 14(1) of the Act.
2. In her application, the tenant stated that she believed the landlord had failed to comply with his duty to ensure that the property met the repairing standard as set out in sections 13(1) (a) and (d) of the Act. Her application stated that the landlord had failed to ensure that:
  - the property is wind and watertight and in all other respects reasonably fit for human habitation
  - the installations in the property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order
3. The tenant made the following complaints in her application:
  1. Two windows in the bedroom and bathroom have no handles, and once opened cannot be closed.
  2. One window in the living room cannot be opened.
  3. Extractor fan in the bathroom does not work.
  4. A cross-beam in the loft is buckled and may be dangerous.
  5. The outside wall and inside walls in the bathroom are black with condensation or dampness.
  6. There is a serious crack in the stair wall which is getting worse.
  7. Hinges are coming off kitchen unit doors and unit shelves often collapse.
  8. Laminate flooring in the kitchen is damaged and is splitting.
  9. Tiles under the kitchen window are falling off.
  10. Landing plug socket is cracked and may be dangerous.
4. The tenant stated in her application that the following work required to be carried out at the property:
  1. Repairs to defective windows.
  2. Extractor fan to be repaired.
  3. Cross-beam in loft to be repaired.
  4. Condensation or damp in loft to be investigated.
  5. Crack in stair wall to be repaired.
  6. Kitchen units to be repaired.
  7. Laminate in kitchen to be replaced.

8. Tiles in kitchen to be repaired.
  9. Landing plug socket to be replaced.
5. By letter dated 12 February 2015, the President of the panel wrote to the parties, notifying them under and in terms of the 2006 Act of her decision to refer the application under Section 22(1) of the Act to a private rented housing committee and that an inspection and a hearing would take place on 9 April 2015. Written representations were requested by 5 March 2015. No written representations were received from either the tenant or the landlord.

### **The inspection**

6. The committee inspected the property on the morning of 9 April 2015. The tenant was present at the inspection. The landlord was neither present nor represented at the inspection.

### **The property**

7. The property is a semi-detached house, which is estimated to be around 60 years old. The property comprises a kitchen, living room and hallway downstairs, and three bedrooms and a bathroom upstairs.

### **The hearing**

8. Following the inspection, the committee held a hearing at Cowie Community Centre, Main Street, Cowie, Stirling FK7 7A. The landlord was represented by Ms Hannah Findlay, Senior Property Manager at Martin & Co, the landlord's agent. She gave evidence on the landlord's behalf. The tenant was unable to attend the hearing due to childcare issues, and was therefore not present or represented at the hearing.

### **The evidence**

9. The evidence before the committee consisted of:
- The application form completed by the tenant.
  - Registers Direct copy of Land Register title STG59938, showing the current owners of the property as Jeremy Vincent Tucker and Juliet Anne Tucker.
  - Copy of an (undated) short assured tenancy agreement between the landlord and the tenant relating to a tenancy beginning on 15 June 2014.

- Letter of notification dated 19 October 2014 from the tenant to the landlord setting out the repairs alleged to be required, together with certificate of posting.
- Copy of property inspection report signed by the tenant and the landlord's agent and dated 14 August 2014.
- Copy invoices dated 13 November 2014 and 24 February 2015 for work done at the property, provided to the committee by the landlord's representative at the hearing.
- A copy letter dated 3 March 2015 from the tenant addressed to the landlord's agent, setting out a list of repairs which she considered to be necessary, provided to the committee by the landlord's representative at the hearing.
- The oral evidence of the landlord's representative.
- The committee's inspection of the property.

### **Summary of the issues**

10. The issue to be determined was whether the property meets the repairing standard as set out in Section 13 of the Act, and whether the landlord has complied with the duty imposed on him by section 14 (1) (b).

### **Findings of fact and reasons for decision**

11. The committee made the following findings in fact:

- The tenant entered into a short assured tenancy agreement with the landlord with a start date of 15 June 2014.
- The property is owned by Jeremy Vincent Tucker and Juliet Anne Tucker.
- The property is managed on behalf of the landlord by Martin & Co, letting agents.

12. The committee in its inspection carefully checked the items which were the subject of the complaint. The complaints before the committee as set out in the tenant's application and the committee's determinations in relation to each of these are set out below.

1. **Two windows in the bedroom and bathroom have no handles, and once opened cannot be closed.**

The committee observed at its inspection that the handles had been replaced on the window in the main bedroom which was the subject of the complaint. When tested by the committee, the left hand side of the window was now

capable of being closed. The handle on the right hand side of the same window was not, however, capable of being moved when tested by the committee and accordingly the window could not be opened. The committee noted that this issue was not included within the tenant's initial application, but that the tenant had notified the landlord's agent about this in her letter of 3 March 2015.

As this constitutes a new issue of disrepair which had not been previously been notified to the committee, the committee is unable to consider this complaint. It would be open to the tenant to make another application to the panel about this matter. The committee observes, however, that the handle on the other side of the window appears to be operating effectively, and is sufficient for ventilation purposes. The committee would suggest that the landlord considers carrying out the requested repair.

The committee also observed that the handles had been replaced on the bathroom window, which was now capable of being closed when tested by the committee.

The committee noted that the invoices seen by the committee showed that new handles had been fitted to windows on two occasions between November 2014 and February 2015, and accepted Ms Findlay's oral evidence that the windows had been repaired on several occasions.

The committee determines that in relation to the issues contained within the tenant's application, the windows are in a reasonable state of repair and in proper working order.

## **2. One window in the living room cannot be opened.**

The window in the living room had been repaired and was now capable of being opened when tested by the committee. The committee determines that the window is in a reasonable state of repair and in proper working order.

## **3. Extractor fan in the bathroom does not work.**

The committee observed at the inspection that a new extractor fan had been installed in the bathroom, which appeared to be operating effectively when tested by the committee. This work was included in the invoice dated 24 February 2015 which was provided to the committee by Ms Findlay. The committee determines that the extractor fan is in a reasonable state of repair and in proper working order.

**4. A cross-beam in the loft is buckled and may be dangerous.**

The committee observed at its inspection that the cross beam in question, a roof truss tie, had been reinforced with supplementary timbers as had a second truss tie. Ms Findlay told the committee that two contractors had been sent out to look at this issue; that both of them had considered the beam to be safe; and that the first contractor had reinforced it. The committee determined that the tie and the roof structure in general did not appear to pose any danger, and that the tie or cross beam is in a reasonable state of repair and structurally sound.

**5. The outside wall and inside walls in the bathroom are black with condensation or dampness.**

Ms Findlay told the committee that the walls inside the bathroom had been washed down, the mould cleaned off and the walls dried in November 2014. She suggested that the mould had been a result of the faulty extractor fan, which had now been replaced. At its inspection, the committee observed that the walls inside the bathroom showed no signs of major mould growth, and concluded that this was as a result of the installation of the new extractor fan.

The tenant told the committee during the inspection that the reference on her application to the 'outside wall' of the bathroom was to the staircase side of the left hand bathroom wall. She said that the wall felt moist when the shower was on in the bathroom. The committee took a damp meter reading from this wall, and found no signs of dampness.

The committee therefore determined that both the outside and inside walls of the bathroom were in a reasonable state of repair and proper working order.

**6. There is a serious crack in the stair wall which is getting worse.**

The committee observed a crack in the plaster on the external wall running alongside the staircase. The committee concluded that this was a cosmetic issue which was not dangerous, and which was not a matter for the repairing standard.

**7. Hinges are coming off kitchen unit doors and unit shelves often collapse.**

The committee observed at its inspection that the doors on two of the lower kitchen units were not secure. The tenant advised at the inspection that the doors had been fixed, but were now falling off again. She also stated that the collapsed unit shelves had been fixed. The committee noted that the invoice dated 24 February 2015 for works done at the property included checking and

aligning kitchen units. Ms Findlay told the committee that the units had been repaired several times.

The committee notes that the landlord appears to have made considerable efforts to repair the kitchen units. The committee determines that the issues which it observed as regards the doors on the units is not sufficiently material to constitute a breach of the repairing standard, and that , on balance, the kitchen units are in a reasonable state of repair and in proper working order. The committee suggests, however that the landlord should consider having these repaired again. It also notes that the kitchen units are of some age and that consideration might be given to replacing these at some future date.

**8. Laminate flooring in the kitchen is damaged and is splitting.**

At its inspection, the committee observed that in one location, the laminate flooring was damaged and slightly uneven. The invoice dated 24th February 2015 included reference to repairs to the laminate flooring, although the committee saw no obvious signs of repairs having been carried out. The committee did not consider the damaged/uneven area of flooring to constitute a trip hazard, and determined therefore that there was no repairing standard issue to consider.

**9. Tiles under the kitchen window are falling off.**

The committee observed at its inspection that the tiles under the kitchen window had been replaced. There was accordingly no repairing standard issue to be considered.

**10. Landing plug socket is cracked and may be dangerous.**

The committee observed at its inspection that the landing plug socket had been replaced. The committee determined that the socket was in a reasonable state of repair and proper working order.

**Summary of decision**

13. On the basis of all the evidence before it, the committee determined that the repairs which were required to address the issues complained about by the tenant had been carried out by the landlord since she had made her application to the panel.
14. At the time of its inspection, the committee found that the property was in a state of repair which met the repairing standard. The decision of the committee

was therefore unanimous not to make an RSEO and to dismiss the tenant's application.

### Observations

15. The committee observed during its inspection that the battery operated smoke alarm in the hallway appeared to be broken and was not functioning. It also observed that the battery operated smoke alarm on the upstairs landing did not appear to be working when tested by the committee, which may have been due to the battery not having been replaced. The committee took the view that this gives rise to health and safety concerns as regards the tenant and her three young children, who live in the house with her.
16. The committee observes that current Scottish Government statutory guidance states that there should be: at least one functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes; one functioning smoke alarm in every circulation space, such as hallways and landings; one heat alarm in every kitchen; and that all alarms should be interlinked.

### Rights of Appeal

11. 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.
12. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the panel or the committee which made the decision.

### Effects of Section 63 of the 2006 Act

19. 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. 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..... **S. O'Neill**

.....Date..... 13/4/15.....

Sarah O'Neill, Chairperson