



**Statement of decision of the Private Rented Housing
Committee under Section 24 (1) of the Housing
(Scotland) Act 2006**

Ref: PRHP/RP/15/0055

Re: 56 STEVENSON DRIVE, EDINBURGH, EH11 3DN (“the Property”)

The Parties:-

Miss Amanda Davies, formerly residing at 56 Stevenson Drive, Edinburgh, EH11 3DN (“the Tenant”)

Michele O’Connor, residing at 127 Saughtonhall Drive, Edinburgh, EH12 5TS (“the Landlord”)

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) in relation to the house concerned, and taking account of the evidence obtained during the inspection, determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 5 February 2015 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 (1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
 - (b) 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. By letter dated 2 April 2015 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
5. Following service of the Notice of Referral the Tenant made no material representations to the Committee other than her original application. The Landlord made written representations to the Committee dated 7 May 2015 via her then agents, Aberdeen Considine, Solicitors.

6. The Private Rented Housing Committee first tried to inspect the Property on 28 May 2015. Unfortunately the Tenant gave very little notice in relation to cancelling the inspection and was thereafter either unwilling or unable to provide access. Notwithstanding the Tenant's refusal to provide access, the Committee determined that they wished to continue with the inspection of the Property as there were health and safety concerns raised by the Tenant. The Committee was entitled to do so under Schedule 2 Paragraph 7 of the Act. A second inspection and hearing was arranged and took place on 27 April 2016. The Committee was comprised of Mr E K Miller, Chairman and Legal Member and Mr R Buchan, Surveyor Member. The Tenant was not present, having vacated the Property. The Landlord was present during the inspection.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at George House, 126 George Street, Edinburgh, EH2 4HH. Neither party was present or represented.
8. The Tenant's submission, as per the original application form, was that there was persistent penetrating and condensation damp within the Property. She alleged there was poor ventilation throughout. She also submitted there was a constant leak in the bathroom and kitchen. The Tenant also alleged that the boiler was not working properly.
9. The Landlord submitted that she had always been willing to carry out any works but had had severe difficulties in gaining access to the Property. The Tenant had eventually refused all attempts at access and the Landlord had had to raise eviction proceedings against the Tenant in order to gain control of her Property and to carry out any appropriate works.

Summary of the issues

10. The issues to be determined were:-
 - (1) Whether there was excessive penetrating damp and/or condensation throughout the Property.
 - (2) Whether there was a leak around the bath/shower.
 - (3) Whether the Property was wind and watertight around the kitchen, under the sink and around the cooker.
 - (4) Whether the cold water tap in the bathroom was working properly.
 - (5) Whether there was a leak under the kitchen sink.
 - (6) Whether the boiler was in proper working order.

Findings of fact

11. The Committee found the following facts to be established:-
 - (1) There was no penetrating damp or excessive condensation within the Property.
 - (2) There had been a leak in and around the bath/shower area but this had been repaired.
 - (3) There were no issues regarding draughts entering around the kitchen.
 - (4) The cold water tap in the bathroom was working.
 - (5) There was no leak under the kitchen sink.
 - (6) The boiler was in proper working order.

Reasons for the decision

12. The Committee based its decision primarily on the evidence obtained during the course of the inspection. Since obtaining access the Landlord had carried out extensive redecoration works and had laid new flooring in some areas. Generally the Property was well decorated and in good order. There was no evidence of any penetrating dampness or any smell of damp. Damp meter readings were taken at various points throughout the Property and no damp areas were located except as noted below.

The Landlord alleged that the mould that had formed within the Property was due to a failure on the part of the Tenant to properly ventilate the Property and that there was no fundamental issue with the Property. The Committee could identify no damp penetration issues and was inclined to agree with the Landlord's assessment.

The Landlord did accept that there had been a leak around the bath/shower area and that there had been some damp penetrating through to the lounge. She had had a repair carried out by a plumber to stop the leak. Whilst the Committee obtained some low level damp meter readings, these were consistent with the area drying out following upon the repair being carried out. There was some minor discolouration of the plasterwork in the lounge but the Committee was not of the view that this was of any significance.

The Committee inspected the area around the kitchen and under the cupboard. The Committee could see no sign of excessive draughts and wind penetration. The Committee was satisfied that the Property met the repairing standard in this aspect.

The cold water tap in the bathroom was in proper working order.

The Committee could see no evidence of a leak under the kitchen sink.

The boiler appeared to be in proper working order.

Subsequent to the inspection the Landlord provided a current gas safety certificate and an energy performance certificate relating to the Property. Neither document showed any issues arising.

The Committee considered matters. Whilst there may have been a historic leak around the bath/shower area, the Landlord had rectified this and, as at the date of the inspection, the Property met the repairing standard. Accordingly the Committee was satisfied that no further action was required.

Pictures taken during the course of the inspection are annexed for information.

Decision

13. The Committee accordingly determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
14. The decision of the Committee was unanimous.

Right of Appeal

15. **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

16. 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.

Signed **E Miller** Date..... *8/6/16*
Chairperson ✓

Schedule of photographs taken during the inspection of
56 Stevenson Drive, Edinburgh EH11 3DN
by Robert Buchan, FRICS, surveyor member of the
Private Rented Housing Committee on the 27th April 2016



Bath detail



Spillage from bath

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GF front



Street

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Rear



Kitchen

