

Ref PRHP/RP/15/0275



**Private Rented Housing Committee**

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

**Re: 96 Ravenswood Rise, Livingston EH54 6PG (“the Property”)**

**Sasine Register Sheet Number: 201403**

**The Parties:-**

**MS CLAIRE GIBB, residing at 96 Ravenswood Rise, Livingston EH54 6PG (“the Tenant”)**

**MR ROBERT JAMES McNAUGHTON and MS DENISE YVONNE McNAUGHTON, 4 Badu Place, Blackwood, Kirkmuirhill, Lanark (“the Landlords”)**

**Committee members:-**

**Richard Mill (Chairman) and Ian Murning (Surveyor Member)**

*Decision*

The committee, having made enquiries for the purposes 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, determined that the Landlords had not failed to comply with their duty imposed by Section 14(1)(b) of the Act in respect that the Property does meet the Repairing Standard.

### *Background*

1. By way of application dated 8 October 2015 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords had failed to comply with their duties imposed by Section 14(1)(b) of the Act in respect of the Property.
2. In the application the Tenant stated that the Landlords had failed to comply with their duty to ensure that the house meets the Repairing Standard in a number of respects. The relevant aspects of the Repairing Standard highlighted in the application are those contained within Sections 13(1)(c), (d) and (f) which are in the following terms:-
  - whether the installations in the house 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.
  - whether any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
  - whether the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

The narrative provided by the Tenant in respect of her complaints clearly raised the issue of a potential breach of Section 13(1)(a) of the Act which is in the following terms:-

- whether the house is wind and watertight and in all other respects reasonably fit for human habitation.
3. Notices of Referral were issued to parties on 21 December 2015.

### *Preliminary matters*

4. Upon receiving the papers the committee considered the application and accompanying documents. It was noted that the lease produced designated the Landlord as “Ms Anjum Guppy”. The registered heritable proprietors in terms of the Sasine Register indicates that the heritable proprietors were Robert James McNaughton and Denise Yvonne McNaughton. In the circumstances a Direction dated 12 January 2016 was issued to seek clarification of the relationship between the parties. It had been noted that a Standard Security had been granted by the heritable proprietors in favour of “Anjum Guppy” in September 2011.
5. A response was received from solicitors confirming that Ms Guppy (as opposed to Guppy as specified in the Land Register) also holds an option to purchase the Property and currently holds a Management Agreement authorising her to manage the letting of the Property. Nonetheless currently the heritable proprietors are those individuals named as the Landlords in the Application,

namely Mr & Mrs McNaughton. Ms Guppy simply seems to be their representative on the basis of the explanation provided.

6. Prior to the inspection and hearing the Tenant who brought the Application had vacated the Property. A new tenant was in situ. The committee determined to continue with the Application given that health and safety issues had been raised within it.

#### *Inspection*

7. The committee inspected the Property on 12 February 2016 at 10.00 am. A member of the Letting Agency managing the Property, Michelle Docherty, met the committee members at the Property and directed them around.

#### *Hearing*

8. Following the inspection of the Property the committee convened a Hearing at Howden Park Centre, Howden, Livingston, West Lothian EH54 6AE. The committee was joined by Michelle Docherty, the Letting Agent.

#### *Summary of the issues*

9. The issues to be determined by the committee are whether or not the Property meets the Repairing Standard to the extent put at issue within the application, as at the date of the Hearing.

#### *Matters complained of by the Tenant*

10. The matters complained of by the Tenant were:-
  - no smoke detectors
  - back bedroom floor with no beading and charred edges
  - electric plug for fire in living room with exposed wires
  - front bedroom window not wind and watertight
  - leaking shed roof
  - one of the bedrooms created by division having no ventilation or window
  - unspecified leak in bathroom causing water damage in bathroom and downstairs below
  - faulty boiler
  - ineffective washing machine
  - roof leak into the flue of previous heating system in kitchen

*Findings in Fact*

11 The committee makes the following findings in fact:

- 11.1 The title to the subjects known as 96 Ravenswood Rise, Livingston EH54 6PG is held by the Landlord. Their interest is registered and recorded in the Sasine Register Sheet Number 201403 with effect from 3 October 1988.
- 11.2 The Property which is the subject of this application is a modern two storey end terraced house. It is a two bedroomed Property with a living room, kitchen and bathroom.
- 11.3 The Tenant entered into a Short Assured Tenancy Agreement on 15 June 2015. Within the Tenancy Agreement the Landlord is designated as "Ms Anjum Guppy". The Landlord is designed care of Rent Locally Co UK, Unit 1, 109 Swanston Road, Edinburgh EH10 7DS. The heritable proprietors are Mr Robert James McNaughton and Ms Denise Yvonne McNaughton.

12. In relation to the matters complained of in the Application the committee's inspection revealed:-

- i. The Property was warm and welcoming. The central heating system was operative. A relatively new gas fired boiler is situated in a cupboard off the front porch as the Property is entered.
- ii. No leak was detectable from the bathroom which is situated upstairs. It was noted that the silicone surrounding the shower tray had recently been replaced. There was evidence of a small historical leak from the bathroom on the ceiling in the downstairs hallway.
- iii. Smoke detectors were noted in both the lower and upper hallways. A heat alarm was noted in the kitchen. A carbon monoxide alarm was noted in the kitchen.
- iv. The second bedroom in the Property has been partitioned to create a large cupboard/walk in wardrobe. This has not been created for the purpose of creating an additional bedroom. There is laminate flooring in that area. The finishing around the edges is somewhat crude. This is a cosmetic issue and there is no trip hazard.
- v. The roof of the garden shed was noted to have been recently replaced.

*Reasons for the Decision*

13. The committee determined the application having regard to the bundle of papers (which had been made available in advance), their inspection, together with the documentary evidence provided by the representative from the Letting Agency and her submissions made at the Hearing.
14. The committee was only able to formally consider the former Tenant's complaints which formed part of the intimated application. The committee was also under an obligation to consider the former Tenant's complaints as at the time of the inspection on 12 February 2016.
15. The committee was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the reference.
16. The committee was provided with a number of documents at the inspection by the Letting Agent. The committee relied upon these. These comprised of the following:-
  - i. A Gas Safety Certificate dated 24 November 2015. There are no concerns in respect of the gas boiler or gas hob. There are no other gas appliances in the Property.
  - ii. An Electrical Installation Condition Report (EICR) dated 5 April 2015. This confirms that the general condition of the electrical installation is good and that the overall assessment of the installation is satisfactory.
  - iii. Documentation from A W Roofing Services Ltd confirming that the flue pipe from the old hot air heating system had been removed and the resulting hole in the roof covered using felt and tiles. Water penetration had been active previously at that site.
  - iv. Vouching in respect of the replacement of the silicone around the shower tray in the upstairs bathroom. This had been the source of the small leak from the bathroom.
  - v. A Report dated 15 June 2015 being a Legionnaires Disease Risk Assessment confirming that the Property is compliant.
17. Based upon the committee's inspection and the documents as referred to within the preceding paragraph, the committee was satisfied that the Property meets the repairing standard. None of the concerns raised by the former Tenant were established.

*Decision*

18. The Property does meet the Repairing Standard. The Landlords have complied with their duty imposed by Section 14(1)(b) of the Housing

(Scotland) Act 2006. A Repairing Standard Enforcement Order is not necessary.

*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 of the Act*

20. Where such an appeal is made, the effect of the decision and of any order made, 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.

**M J Murray**<sup>s</sup>

**R Mill**

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Date: 15 February 2016

Legal Secretary