



**Minute of Continuation made by the Private Rented Housing Committee**

PRHP Ref: PRHP/RP/15/0311

**Property at: 72 New Hunterfield, Gorebridge, Midlothian, EH23 4BH**

**Title No: GRS Midlothian**

**The Parties**

Kevin Thomson, formerly residing at 72 New Hunterfield, Gorebridge, Midlothian, EH23 4BH ("the tenant")

and

James Manclark, represented by Rent Locally, Unit 1/109 Swanston Road, Edinburgh EH10 7DS ("the landlord")

**Committee Members**

Paul Doyle	Chairperson
Ian Murning	Surveyor Member

**Minute of continuation to a determination being a decision under Schedule 2 Paragraph 7(3) of the Housing (Scotland) Act 2006**

- 1 The Committee received notice that the tenant lawfully vacated the property in or about January 2015 and that the tenancy of the house has been terminated, and accordingly under Paragraph 7(1) of Schedule 2 to the Housing (Scotland) Act 2006 ("the Act"), the tenant is to be treated as having withdrawn his application under Section 22(1) of the Act. The Private Rented Housing Committee then considered the application and whether said application should be determined or whether it should be abandoned in terms of Schedule 2 Paragraph 7(3) of the Act
- 2 Within the application, the tenant alleges that repairs are required to be carried out to the property, which if substantiated, are likely to raise health and safety issues for future occupants. Given the nature of these allegations which involve issues relating to dampness and mould, the Committee consider that the application should be determined on public interest grounds due to the nature of the tenant's complaint which raises health and safety concerns for any future tenants. Accordingly, the Committee has decided to continue to determine the application.

**P Doyle**

Chairperson

19 February 2016



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

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("the landlord")

**Decision**

The Committee, having made such enquiries as it sought 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 in relation to the property concerned and taking account of all of the evidence available to the Committee, determined that the landlord has complied with the duty imposed by Section 14(1)(b) of the 2006 Act.

**Background**

- 1 By application dated 5 November 2015, the tenant applied to the Private Rented Housing Panel to determine whether or not the landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the 2006 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 house is wind and watertight and in all other respects reasonably for human habitation, in terms of Section 13(1)(a) of the 2006 Act;
  - (b) The fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order, in terms of Section 13(1)(d) of the 2006 Act;

- (c) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, in terms of Section 13(1)(f) of the 2006 Act.

3 By interlocutor dated 4 December 2015, the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 23(1) of the 2006 Act to a Private Rented Housing Committee. The Committee was made up of:

Paul Doyle	Chairperson
Ian Murning	Surveyor Member

4 The Private Rented Housing Panel served notice of referral under and in terms of Schedule 2 Paragraph 1 of the 2006 Act on the landlord and the tenant on 24 December 2015. Following service of referral, neither party made any further written representations to the Private Rented Housing Panel.

5 The Committee inspected the property at 10am on 19 February 2016. The landlord's agent was present. The tenant was neither present nor represented. The tenant had removed from the property in the third week of January 2016. By minute of continuation dated 19 February 2016 the Committee resolved to continue consideration of this application because of the nature of the issues raised by the tenant in his application.

6 Following inspection of the property, the Private Rented Housing Committee held a hearing at Middleton Village Hall. Neither the tenant nor the landlord appeared at the hearing, nor were they represented. No application was made to adjourn the hearing. Committee members were satisfied that they could justly determine this case in the absence of the parties.

7 The tenant's position is that water enters the property through the roof and windows, so that the entire roof of the property requires repair, and each of the windows requires to be resealed. The tenant claims that there is defective guttering above the property. The tenant claims that the property is infested with damp; the lights in the living room toilet do not work and that the taps do not work.

8 The landlord's position is that a comprehensive programme of repair and renovation has now been completed, so that the property meets the repairing standard required by the housing Scotland act 2006.

### **Summary of Issues**

9 The issues to be determined are whether or not the house complies with the repairing standard set out at Sections 13 and 14 of the 2006 Act.

### **Findings in Fact**

10 (a) By entering into a lease agreement on 27 September 2013 the landlord let the property to the tenant. The tenancy agreement terminated in the third week of January 2016 when the tenant vacated the property.

(b) The property is an upper flat in a brick built "four in a block" with gardens to the front and rear. External stairs at the side of the larger building lead to the front door of the property, which opens onto an entrance vestibule leading to a short flight of internal stairs. A central hallway provides access to all of the rooms apart from the kitchen (which is entered from the living-room). The property has two bedrooms, a living-room, bathroom and kitchen. The property benefits from gas fired central heating. There are double glazed UPVC windows throughout the property.

(c) Roof repairs have recently been carried out to the larger building of which this property forms part. The works were completed on 5<sup>th</sup> February 2016. The scaffolding used to enable roofing works was removed from the property on 19<sup>th</sup> February 2016. The interior of the property has been recently redecorated. None of the ceilings in the property show any signs of water ingress. None of the walls, window surrounds or sills show any evidence of water ingress.

(d) The living room and one bedroom to the front of the property overlook New Hunterfield (a main road). The second bedroom, bathroom & the kitchen at the rear of the property overlook garden ground. Each room has UPVC double glazed windows. The seals in each of the double glazed window units are intact. Each of the Windows opens and closes properly. There are no defects with the Windows in the property. There are windows with better design; none of the Windows has either a trickle vent or a hopper so that it is necessary to open a window for ventilation, but the fact remains that there are no defects with the Windows.

(e) A modern consumer box with circuit Breakers is attached high on the wall in the hallway. The lights in every room work. When the light in the bathroom is switched on an expel air fan is activated. There is no defect in the electrical installation in the property.

(f) The taps in the bathroom and kitchen allowed good flow of water when they are switched on. When they are switched off the flow of water stops. The interior of the property was renovated, repaired and decorated in January/February 2016. Those works were completed on 15<sup>th</sup> February 2016.

(g) In one small area adjacent to the window in the bedroom to the front of the property, there is a patch with higher than average damp meter readings. On the corresponding section of the exterior wall there is damage to the render. It is likely that small amounts of moisture are now penetrating the brickwork in that small area, causing the higher than average damp meter readings. That small area of penetrating damp has not yet had a deleterious effect, but the landlord will want to repair the rendering before that small defect causes serious damage.

(h) Although there are higher than average damp readings in the bedroom to the front of the property (in one small isolated area no more than 1 ft.<sup>2</sup>) that defect does not prevent the house from meeting the repairing standard.

(i) There are mains wired, interconnected smoke alarms fitted in the hall & the living room of the property. There is a heat detector in the kitchen. There is a carbon monoxide detector in the living room, immediately adjacent to a gas miser fire.

(j) It is clear that works were carried out to this property after the tenant vacated the property. The committee consider the condition of the property at the date of inspection. If there were defects in this property, they have been remedied by the works carried out in January and February 2016. At the date of inspection, the property meets the repairing standard set out in the Housing (Scotland) Act 2006. There is therefore no need for a repairing standard enforcement order.

### **Reasons for Decision**

12 (a) Committee members inspected this property at 10am on 18 February 2016. It was a cold, slightly damp, but clear, February morning. The tenant vacated this property in January 2016. He was neither present nor represented at the inspection. Matthew O'Hare, from the landlord's agents, greeted committee members outside the property and invited committee members into the property to carry out inspection.

(b) It was immediately obvious to committee members that repair, refurbishment and decoration works have recently been carried out to this property. At the start of inspection, scaffolding was still around the larger building of which this property forms part. During the inspection, scaffolder's arrived and started to dismantle the scaffolding. Within the property, the walls, ceilings and woodwork had obviously been recently painted. There was no furniture at all in the property.

(c) The surveyor member of the committee took damp meter readings throughout the property. With the exception of one small patch (referred to above) in the bedroom to the front of the property, the damp meter readings were within the normal range. Having found higher than normal damp meter readings in one small patch, committee members inspected the corresponding external wall - where they found a crack in the render which is permitting moisture to permeate the brickwork of the property. That patch of damp is an indicator of the start of penetrating damp. Because the damp patch is in one isolated (small) area, the house continues to meet the repairing standard; but now that that damp patch and its source been found it is in the landlord's interest to carry out what (now) will be a small repair to remedy what is (just now) a small defect.

(d) Because damp meter readings within the normal range were found throughout this property, and because there are no signs of water ingress to the ceilings or windowsills, committee members find that the house is wind and watertight and is not infested with damp. It may well be that the recent programme of works, which included roofing repairs, has resolved an historical problem. On the date of inspection, there was no evidence of water penetration, black mould or penetrating damp throughout the property.

(e) The tenant complained that there were defects with the windows, & that the seals in the double glazed units are broken. Committee members could see that each room has UPVC double glazed windows. Committee members opened and closed the windows and found that the windows work properly. Committee members could see

that the seals in each of the windows are intact. Committee members could see that the windows fit the frames properly. Committee members could not find any trace of a draught once the windows were closed.

(f) Committee members could see that there are mains wired interconnected smoke alarms on the hall & in the living room. The surveyor member of the committee tested the smoke alarms and found that they worked. Committee members could see a heat detector fitted to the ceiling in the kitchen. In the living room there is a gas miser fire. Immediately adjacent to that fire is a carbon monoxide detector.

(g) After the inspection, a hearing took place at Middleton Village Hall. Neither the appellant nor the landlord attended the hearing, nor were they represented. Committee members use the hearing as an opportunity to discuss their observations and review the documentary evidence.

(h) It is reasonably likely that when the tenant submitted his application repairs were required to the roof of the property. The landlord makes it clear that a comprehensive programme of repairs, including roof repairs, was carried out after the tenant vacated the property and before the date of inspection. Committee members consider the condition of the property at the date of inspection. The only defect found in the property was the small patch of damp in the bedroom to the front of the property. Committee members remind themselves of the terms of the Housing (Scotland) Act 2006 and the requirements of the repairing standard. Having done so, committee members unanimously come to the conclusion that the small patch of damp is not sufficient to prevent this property from meeting the repairing standard at the date of inspection. It is however a lingering defect which the landlord will want to remedy quickly in order to protect his investment.

(i) Committee members observations and the weight of reliable evidence indicates that this property is wind and watertight; that the fixtures fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order; and that the property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

(j) On the facts as the committee find them to be, the only conclusion that the committee can draw is that this property meets the repairing standard at the date of inspection. There is therefore no requirement for a repairing standard enforcement order.

### **Decision**

13 The committee accordingly determined that the landlord has complied 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.

**P Doyle**

Signed.....  
Chairperson

Date 23/02/2016

















