



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

Reference number: PRHP/RP/16/0091

**Re: Property at 65 Cross Street, Fraserburgh, Aberdeenshire, AB43 9EL
("the property")**

Land Register Number: ABN 95216

The Parties:-

**Miss Nicola Wade, 65 Cross Street, Fraserburgh, Aberdeenshire, AB43
9EL ("the Tenant")**

**Mrs Vicki Marioni, Lochlip, Rathen, Fraserburgh, Aberdeenshire, AB43
8TR ("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 led by the Tenant at the hearing and the documentation produced by the Landlord, 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 March, 2016 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 the duty to ensure that the house was wind and watertight and in all other respects reasonably fit for human habitation, that the structure and exterior of the house (including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order, that any fixtures and fittings and appliances provided by the Landlord under the tenancy were in a reasonable state of repair and in proper working order and that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and that the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. The President of the Private Rented Housing Panel intimated a decision to refer the application under Section 23 (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. The Private Rented Housing Committee (comprising Mrs Judith Lea, Chairman and Legal Member and Mark Andrew, Surveyor Member) issued a Direction on 1 April, 2016 requiring the Landlord to provide a copy of an up to date Gas Safety Certificate and

obtain an up to date Electrical Installation Condition Report by an NICE IS or ECL Registered contractor in respect of the property and evidence that there is sufficient provision for carbon monoxide alarms in the property.

6. The Landlord produced an Electrical Installation Condition Report and also some documentation and invoices with regard to certain repairs which had been carried out at the property.
7. A few days before the Inspection and Hearing, the tenant sent an email stating that the repairs to the property had been completely. The tenant was asked to confirm whether or not she wished to withdraw her application. The landlord was asked to provide a copy of the Gas Safety Certificate and evidence that there was sufficient provision for carbon monoxide alarms in the property. As this information was not provided, the Committee proceeded with the Inspection and Hearing.
8. The Committee inspected the property on 3 May 2016. The Tenant was present. The Landlord was not present or represented.
9. Following the inspection of the property, the The Private Rented Housing Committee held a Hearing at Fraserburgh Leisure Centre, North Links, Seaforth Street, Fraserburgh. The Tenant attended with her friend, Lisa Carroll. The Landlord was not present or represented.
10. The Tenant confirmed at the Hearing that all the issues she had complained about had been rectified by the Landlord. She indicated that things had got much better since the Landlord had instructed various Louis Forbes of Forbes Property to be her agent. The Tenant indicated that her only ongoing concern was that she would be blamed for mould being present in the bathroom. She explained that the window was constantly kept on the latch but she could not have it open any further than this for safety reasons. She indicated that the Landlord had advised that an extractor fan was not required. The Tenant indicated that she thought there was a current Gas Safety Certificate for the property and that the Landlord's agent had a copy of it.
11. It was clear from inspection and from the submissions made by the Tenant that the Landlord had carried out work at the property to rectify the matters complained about by the Tenant. The porch door lock had been repaired and the porch roof mended with the inside of the porch have been replastered. The hole in the roof had been repaired with new tiles on the outside and replastering having been done on the inside. Smoke alarms were present throughout the property and a carbon monoxide and heat alarm were present in the kitchen. Photographs are at Appendix A. The Committee noted that there was not presently a smoke alarm in the room the Tenant used as a diningroom and recommended that the Landlord consider fitting a smoke alarm in this room. The Landlord had produced an Electrical Installation Condition Report and the afternoon after the inspection and Hearing emailed through a copy of a current Gas Safety Certificate.
12. In the circumstances the Committee considered that it was not necessary to make a Repairing Standard Enforcement Order. Although an extractor fan is not required in the bathroom, given the size of the bathroom and the number of people living in the property, it might be sensible to fit an extractor fan.

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.
15. Photographs of the property as at the date of inspection are attached at Appendix A.

Right of Appeal

16. **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

17. 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 **J Lea** Date.....6 May 2016.....
Chairperson



Front elevation (brown painted windows and doors)



Back door lock



Rear porch roof post repair



Porch ceiling



Bathroom ceiling – note discolouration of coving



Top floor landing ceiling (former hole)

J Lea