



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

prhp Ref: PRHP/AB10/92/10

Re : Property at 1B Diamond Place, Aberdeen, AB10 1NL ("the Property")

The Parties:-

MISS LISA BAXTER residing at 1B Diamond Place, Aberdeen, AB10 1NL ("the Tenant")

LLOYDS TSB BANK PLC c/o Alba House, 7 Logie Mill, Beaverbank Business Park, Logie Green Road, Edinburgh, EH7 4HG ("the Landlords")

ST VINCENT STREET (491) LIMITED, lower ground floor, 21 Blythswood Square, Glasgow, G2 4BL ("the Proprietors")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence provided by both the Landlords and the Tenant, determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 15 June 2010 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords 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 Landlords had failed to comply with their duty to ensure that the Property met the repairing standard and, in particular, that the Landlords had failed to ensure that:-
 - (a) the Property is wind and watertight and in all other respects reasonably fit for human habitation; and
 - (b) the structure and exterior of the Property (including the drains, gutters and external pipes are in a reasonable state of repair and in proper working order).
3. By letter dated 30 June 2010 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 Landlords and the Tenant.
5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than her original application dated 15 June 2010. The Landlords' agents, Messrs Jones Lang La Salle, 7 Exchange Crescent, Conference Square, Edinburgh made written representations dated 16 July 2010 to the Committee.

6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member; Mr C Hepburn, Surveyor Member; and Mr M Scott, Housing Member accompanied by the Clerk, Mr Robert Shea) inspected the Property on the morning of 2 September 2010. The Tenant was present during the inspection. The Landlords were not present during the inspection.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at the Inspire Conference Centre, Beach Boulevard, Aberdeen and heard from the Tenant. The Landlords were neither present nor represented. The Tenant represented herself.
8. The Tenant submitted as follows:-

The issue of water penetration from the exterior in to the interior of the Property had been a long running issue. This had first occurred in December 2008 and no material progress had been made to date in resolving the issue. Internal painting of damaged areas of plaster had been carried out some time ago but very rapidly the damp had reappeared. The Tenant felt that she had been very patient throughout the whole process. Numerous emails had been sent to the Landlords' agent but very little concrete progress had ever been made. Within the last couple of weeks some scaffolding had been erected at the rear of the Property and the Tenant thought that some works had been done to the roof to try and address the issues. No work had been done to the interior of the Property however.
9. The Landlords has submitted, via their written representations of 16 July 2010, that they acknowledged and accepted that there was a problem with water ingress to the flat. They had carried out investigations to try and identify the source of the problem. These investigatory works had taken longer than anticipated due to the logistical difficulty of accessing the roof of this building. The Landlords had obtained a quotation to carry out external works that would hopefully make the Property wind and watertight. Internal remedial works would then be undertaken thereafter. The Landlords' written submission indicated that they hoped to have the external works completed by the end of August.

Summary of the issues

10. The issues to be determined are whether water ingress is still occurring into the Property and whether it is now wind and watertight. In particular the three areas where this has occurred are:-
 - To the main bedroom to the front of the Property;
 - To the bathroom at the rear of the Property; and
 - To the kitchen at the front of the Property.

Reasons for the decision

11. The Committee based its decision primarily on the inspection carried out of the Property in each of the three locations where the Tenant had claimed there was water ingress. There was visual evidence of water damage in each of these three areas. Mr Hepburn, the Surveyor Member, took damp meter readings in each of the three locations and, in each of these areas, the moisture levels were off the scale. The Committee were satisfied that there had been recent and extensive water penetration to the Property in each of the locations highlighted by the Tenant. The Committee were unable to gain access to the roof adjacent to the bedroom and kitchen in order to ascertain what, if any, works had been carried out. It was apparent from a view from the velux window in the kitchen that some work had been done adjacent to the chimney breast. Whilst accepting that some works had been done the Committee were concerned that there were still exceptionally high levels of damp meter readings within the Property. The Surveyor Member was aware that dealing with water ingress could be a difficult issue. Works that are carried out will not always be successful and other alternative remedial works may be required to be investigated and implemented before a successful repair could be achieved. The

Committee were of the view that the Landlords would require to continue to monitor the position and carry out regular checks to see if damp levels were decreasing. If they were not decreasing then they would require to carry out further work to the exterior of the Property.

In relation to the water ingress in the bathroom, the Landlords' agents written submission had indicated that they were to carry out repairs to the two sash windows, repair all cills and ironmongery and rake out and replace pointing around the windows. It was apparent from the Committee's inspection that none of this work had been carried out and that water ingress would continue to occur in the bathroom until this was dealt with.

On the question of internal redecoration it was clear that remedial work was required. The Committee accepted that until the exterior problem and the source of the water ingress had been removed there was little point in the Landlords carrying out the internal works. The Committee were disappointed that the Tenant had had to wait so long for work to start and were satisfied that works could have been commenced much earlier, given the Tenant had complained of this issue since December 2008. The Tenant had been exceptionally patient with the Landlords and their agents. The Committee were of the view that the Landlords required to monitor the damp levels and once these were beginning to reduce to an acceptable level the internal works could be carried out. Given the level of damp and the extent of the damage, the Committee were of the view that plaster renewal would require to be carried out in some areas, particularly in the kitchen.

The Committee were minded to serve a Repairing Standard Enforcement Order on the Property and, after discussion, were of the view that three months was an appropriate period for the works to be completed in full. This was a longer period than the Committee would have liked to have given but the Committee were mindful that the Landlords might require to carry out further exterior works in relation to the kitchen and bedroom and an allowance needed to be given for the time in drying out the damaged areas.

The Committee also noted during the course of the Hearing that a recent search of the property had indicated that the Landlords were not the proprietor of the Property but appeared to be tenants themselves of the Proprietor. Accordingly, the Committee were of the view that copies of the Decision and RSEO should be served, for information purposes, on the Proprietor as well.

Decision

12. The Committee accordingly determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
13. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
14. The decision of the Committee was unanimous.

Right of Appeal

15. A Landlords 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.

E Miller

Signed
Chairperson

..... Date..... 22 / 9 / 2010



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Dundee 22/9/2010
Confirmed a true and complete copy
Signed [Signature] Notary Public

prhp Ref: PRHP/AB10/92/10

Re : Property at 1B Diamond Place, Aberdeen, AB10 1NL ("the Property")

Title No: 1B Diamond Place, Aberdeen being the upper floor flat forming part and portion of the subjects 19 Union Terrace, Aberdeen and 1 Diamond Place Aberdeen being the subjects registered in the Land Register of Scotland under Title Number ABN50632

The Parties:-

LLOYDS TSB BANK PLC c/o Alba House, 7 Logie Mill, Beaverbank Business Park, Logie Green Road, Edinburgh, EH7 4HG ("the Landlords")

MISS LISA BAXTER residing at 1B Diamond Place, Aberdeen, AB10 1NL ("the Tenant")

ST VINCENT STREET (491) LIMITED, lower ground floor, 21 Blythswood Square, Glasgow, G2 4BL ("the Proprietors")

NOTICE TO LLOYDS TSB BANK PLC ("the Landlordss")

Whereas in terms of their decision dated 22 September 2010, the Private Rented Housing Committee determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlords have failed to ensure that the property is:-

- (a) the Property is wind and watertight and in all other respects reasonably fit for habitation; and
- (b) the structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.

the Private Rented Housing Committee now requires the Landlords to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the Landlords:-

- (a) to carry out such works as are necessary to render the Property wind and watertight and to ensure there is no further water ingress to the Property with particular reference to the main bedroom, bathroom and kitchen within the Property; and
- (b) to carry out such internal remedial works as are necessary to repair the damage caused by previous water ingress including renewal of plaster where required and to carry out redecoration works following completion of the repair works.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of three months from the date of service of this Notice.


A Landlords or a 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.

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.

In witness whereof these presents type written on this and the preceding page(s) are executed by Ewan Kenneth Miller, solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, chairperson of the Private Rented Housing Committee at Dundee on 22 September 2010 before this witness:-

L Johnston

-witness


Lindsay Johnston
Legal Secretary
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ

E Miller

Chairman