



Statement of decision of the Private Rented Housing Committee under Section 26 (2) of the Housing (Scotland) Act 2006

prhp Ref: prhp/RP/13/0048

Re : Property at 15 Belmont Street, Newtyle, Blairgowrie PH12 8UE ("the Property")

The Parties:-

Daryll Rennie, residing sometime at 15 Belmont Street, Newtyle, Blairgowrie PH12 8UE ("the Tenant")

And

The Executor of the late James Arthur Cayzer, latterly of Kinpurnie Castle, Newtyle, Blairgowrie ("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 Repairing Standard Enforcement Order in respect of the Property made on 3 September 2014, determined that the Landlord had failed to comply with the said Order.

Background

1. By application dated 4 June 2013 and received by the Private Rented Housing Panel ("the Panel") on 4 July 2013, the Tenant applied to the 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 house is wind and water tight and otherwise fit for human habitation,
 - (b) 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,
 - (c) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order,
3. On 14 December 2013, the President of the Panel, having been advised that the Tenant had vacated the Property and was, therefore, treated as having withdrawn the application, decided that the application should be determined on public interest grounds due to the nature of the alleged repairs, which raised health/safety issues for any future tenants and issues as to whether the Property was fit for human habitation and was safe. The President intimated this in a Minute of Continuation issued under Schedule 2 Para 7(2) of the Act. On the same day, the President of the Panel issued a Notice of Direction, requiring the Landlord to provide an up to date electrical inspection report by a suitably qualified electrician on the working order and condition of the installation in the Property

for the supply of electricity, which report was also to address the state of repair and working order of the fuse box.

4. By letter dated 17 December 2013 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.
5. 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.
6. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than the original application dated 4 June 2013 and received on 4 July 2013. The Landlord (by e-mail dated 14 February 2014), made written representations to the Committee.
7. The Private Rented Housing Committee attempted to inspect the Property on 12 May 2014. But was unable to gain access. Neither the Tenant nor the landlord was present or represented at the inspection or at the subsequent hearing at the Angus Hotel, Wellmeadow, Blairgowrie. At the hearing, the Committee decided to continue the application to a later date and issued a Minute of Continuation to that effect. The Committee inspected the Property on the morning of 3 September 2014. Neither the Tenant nor the Landlord was present or represented during the inspection, but the Committee was admitted to the Property by Denise Cassell of Kinpurnie Estate Office, on behalf of the Landlord. The Committee comprised George Clark (Chairman), Mike Links (Surveyor member) and David Hughes Hallett (Housing member).
8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at the Angus Hotel, Wellmeadow, Blairgowrie. Neither the Tenant nor the Landlord was present or represented at the hearing.
9. Following the hearing, The Committee decided to make a Repairing Standard Enforcement Order in respect of the Property.
10. The Repairing Standard Enforcement Order was served on the Parties on 10 September 2014.
11. The Repairing Standard Enforcement Order required the Landlord:
 - (a) to carry out such works as are necessary to make the front entrance door of the Property wind and water tight ;
 - (b) to instruct a suitably qualified dampproofing specialist to investigate the cause of rising damp in the gable wall of the understairs storage area in the Property and thereafter carry out such works as the specialist may recommend in order to eradicate the rising damp; and
 - (c) to instruct a suitably qualified roofing contractor to investigate the cause of penetrating damp in the party wall adjacent to the chimney breast in the two upstairs bedrooms in the Property, thereafter to carry out such works as are necessary to make the Property wind and water tight, and to make good plasterwork in the bedrooms and redecorate as necessary.
12. The surveyor member of the Committee re-inspected the Property on 24 November 2014. He reported that the front entrance door had been draught-proofed, although daylight could be seen through a small area between the bottom of the door and the frame. A report had been obtained from Martin Property Care Ltd, dated 26 September 2014. That report had recommended a full roof void treatment for common furniture beetle. Further areas of woodworm were identified, though only the bathroom floor required full treatment. In addition, a water based insecticide treatment was recommended, as a precautionary measure, to the stair timbers within the storage area. Wet rot was reported as affecting the joists in the understairs cupboard. A full treatment to this area was recommended, to include overlaying the solum with a heavy duty polythene dampproof

membrane, and replacing the wallplate, joists and flooring. A Certificate of Guarantee had been issued by the contractor, covering the aforesaid work. The specialists' report had, however, also advised of the presence of dampness in the lath and plaster finish in the understairs cupboard and this work did not appear to the surveyor member of the Committee to have been carried out. There was visible evidence of dampness in the affected area and this was confirmed by moisture meter readings. A report had also been submitted to the Committee from Peter Drummond Ltd, which recommended repairs to the chimneyhead. This work included hacking off defective skews, stripping slates around the chimney and supplying and fitting new lead soakers. The report was dated 31 January 2013. The surveyor member of the Committee commented that, given that the timber specialist had reported recent water ingress into the roof and that the Committee had noted internal dampness during its inspection on 3 September 2014, it had to be assumed that no work had been undertaken in early 2013, following on the report from Peter Drummond Ltd. Due to the layout of the roof, it was difficult to ascertain whether the work had been undertaken since then. The dampness noted in the bedroom at the time of the Committee's original inspection was still present, but if repair work had recently been carried out, it would take some time for the dampness to dry out and the affected area of plaster might require to be stripped off, re-plastered and then redecorated. The surveyor member of the Committee's report concluded that, although some of the work required by the Repairing Standard Enforcement Order had been completed, it was clear that some items remained outstanding.

13. The Committee, having considered the re-inspection report of its surveyor member and having received no response from the Landlord, offering any explanation for the works required by the Repairing Standard Enforcement Order not having been carried out, then considered whether the Landlord had failed to comply with the Repairing Standard Enforcement Order.

Summary of the issues

14. The issues to be determined were whether the Landlord had failed to comply with the Repairing Standard Enforcement Order.

Findings of fact and Reasons for the decision

15. The Committee finds the following facts to be established:-
 - The necessary works to make the front entrance door of the Property wind and water tight have been carried out to an acceptable standard.
 - Some, but not all of the works recommended by the damproofing specialist have been carried out, but the problem of dampness in the understairs cupboard has not been resolved.
 - The Landlord has not provided any evidence to indicate that the work required to make the Property wind and water tight has been carried out, following on the investigation as to the cause of penetrating damp in the party wall adjacent to the chimney breast in the two upstairs bedrooms of the Property and the surveyor member of the Committee has been unable from his own visual inspection, to ascertain that such works have been carried out.

Decision

16. The Committee accordingly determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order.
17. The Committee proceeded to serve notice of the failure on the local authority, as required by Section 26(2)(a) of the Act.

18. The decision of the Committee was unanimous.

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

20. 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 **G. Clark** Date..... 7 May 2015
Chairperson