



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

**prhp Ref: prhp/rp/15/0245**

**Re : Property at 15 Bank Street, Wigtown, Newton Stewart DG8 9HR ("the Property")**

### **The Parties:-**

**M/s Kerry Johnstone and Mr Gordon McClymont, both residing at 15 Bank Street, Wigtown, Newton Stewart DG8 9HR details ("the Tenant")**

**Mrs Amy Dill and Mr Robert Dill, both residing at 15 Lochancroft Lane, Wigtown, Newton Stewart DG8 9HZ ("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 response by the Landlord to the reinspection report, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.**

### **Background**

1. By application dated 28 August 2015 and received on 2 September 2015, 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 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 in all other respects reasonably fit for human habitation,
  - (b) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,
  - (c) the installations in the house for the supply of water, gas and electricity and or sanitation, space heating and heating water are in a reasonable state of repair and in proper working order, and
  - (d) 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. By letter dated 16 October 2015, 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 Landlord and the Tenant.
5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than the original application. The Landlord (by letter dated 3 December 2015), made written representations to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 11 January 2016. The Tenant was present during the inspection. The Landlord was neither present nor represented at the inspection.
7. The Committee comprised George Clark (Chairman) and Carol Jones (surveyor member).
8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The McMillan Centre, Dashwood Square, Newton Stewart DG8 6EQ and heard from the Tenant. The Landlord was neither present nor represented at the hearing.
9. Following the inspection and hearing, the Committee made a Repairing Standard Enforcement Order in respect of the Property. The Order required the Landlord:
  1. To exhibit to the Committee an Electrical Installation Condition Report from a suitably qualified and registered electrician in respect of the Property and to carry out all remedial works recommended in the Report.
  2. To replace the missing section of kick plate in the kitchen of the Property.
  3. To carry out such repairs as are necessary to properly secure the power point in the living room of the Property and to replace or repair the cooker socket in the kitchen and ensure it is adequately sealed.
  4. To have a suitably qualified roofing contractor inspect and repair all rainwater goods at the Property, including gutters and downpipes, to ensure all are secure and in proper working order.
  5. To have a suitably qualified roofing contractor repair or replace all missing and slipped slates and clean off vegetation growth on the roof of the Property and carry out such works as are necessary to ensure that smoke cannot escape from cracks in the chimney stack.
  6. To carry out such remedial work as is required to ensure the radiator in the back bedroom of the Property is in proper working order.

The Private Rented Housing Committee ordered that the works specified in the Order must be carried out and completed within the period of six weeks from the date of service on the Parties of the Notice of the Order.

10. The Order was served on the Parties on 28 January 2016.
11. The surveyor member of the Committee re-inspected the Property on 18 April 2016. The Landlord, Mr Robert Dill, was present at the re-inspection. The Tenant had vacated the Property, so was not present at the re-inspection. A copy of the reinspection report is attached to and forms part of this Decision. The surveyor member reported to the Committee that the Landlord had instructed a building contractor to carry out works to repair/replace all the rainwater goods, gutters and downpipes at the Property. Scaffolding had been erected to the front elevation, a new PVC gutter and downpipe had been installed to the rear, a repair had been carried out to the leaking joint at the gutter on the rear single storey kitchen extension and the cast iron gutter to the front elevation had been renewed. The front down pipe had not, however, been replaced as at the date of the reinspection. The front pitch of the roof and part of the rear pitch under the dormer window had been completely re-slatted. Several broken slates had also been replaced to the rear pitch. The ridging had not been reinstated and all required works to the chimney remained outstanding. The Landlord had not exhibited an Electrical Installation Condition Report and no works had been done to the electrical installation in the Property. The Landlord had stripped out the kitchen and advised the surveyor member of the Committee that a

new kitchen had been ordered. The double socket in the living room had not been secured. The cooker point remained in the condition it was in at the date of the original inspection.

12. A copy of the reinspection report was sent to the Landlord, who was given an opportunity to comment on its contents. The Landlord responded on 2 May 2016, saying that the kitchen had not been fitted because someone had expressed an interest in buying the Property and the cooker switch might have to be moved depending on where the cooker was to be fitted. The other socket could be repaired at the same time. The Landlord also advised that the Property was up for sale.

### **Summary of the issues**

The issues to be determined were whether the Landlord had complied with the Repairing Standard Enforcement Order and, if so, whether it was appropriate for the Committee to discharge the Order and the Rent Relief Order in respect of the Property.

### **Reasons for the decision**

The Committee noted the response of the Landlord to the reinspection report that the Property was on the market, but had no evidence of this and was not prepared to discharge the Repairing Standard Enforcement Order. The work required had not been completed and the Committee could not be sure that the Landlord would not decide to re-let or that a new owner would not let out the Property. The condition of the Property was such that there was a significant health and safety risk to any new occupants and, in these circumstances, it would not be appropriate to discharge the Order.

### **Decision**

1. The Committee accordingly determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order made on 5 January 2016 and that the Order, should remain in force. As the Tenant had vacated the Property, the Committee was unable to make a Rent Relief Order in respect of the Property.
2. The decision of the Committee was unanimous.

### **Right of Appeal**

3. **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**

4. 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.

G. CLARK

Signed.....

.....Chairperson 25 May 2016