



A Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/13/0134

Re : Property at 105 Cocklaw Street, Kelty, Fife, KY4 0DG ("the Property")

Land Register Title No: FFE1756

The Parties:-

Jacqueline Thomson Kemp, formerly of Balmule Farm, Dunfermline and now at Kinsbarns Equestrian Centre, Westershielhill, Falkirk, FK1 38T ("the Landlord")

Mr Peter Miller and Mrs Linda Miller, 105 Cocklaw Street, Kelty, Fife, KY4 0DG ("the Tenants")

NOTICE TO

Jacqueline Thomson Kemp, formerly of Balmule Farm, Dunfermline and now at Kinsbarns Equestrian Centre, Westershiel Hill, Falkirk, FK1 38T

Whereas in terms of their decision dated ^{9th April} 2014, The Private Rented Housing Committee having determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord has failed to ensure that:- that the house is wind and water tight and in all other respects reasonably fit for human habitation, that 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, that the installations in the house for 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 and that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire; The Private Rented Housing Committee now requires the Landlord 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 of the work in terms of this Order is made good.

In particular, the Private Rented Housing Committee requires the Landlord to:-

1. Produce an up to date gas safety certificate and investigate and repair/replace, if necessary, the boiler ignition to ensure that it is in a reasonable state of repair and in proper working order;
2. Repair/replace the roof covering, gutters and downpipes to ensure that the house is wind and water tight and in all other respects reasonably fit for human habitation and that the structure and exterior of the house are in a reasonable state of repair and in proper working order;

3. Repair/replace the front door of the property to ensure that the house is wind and water tight;
4. Repair/replace flooring in the hall to ensure that it is in a reasonable state of repair;
5. Ensure that there is satisfactory provision within the property for detecting fires and for giving warning in the event of a fire or suspected fire.

The Private Rented Housing Committee orders that the work should be carried out within a period of 28 days from the date of service of this notice.

A landlord or a tenant aggrieved by this 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 variation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the variation 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 are executed by Judith V Lea, solicitor, Unit 3.5 The Granary Business Centre, Coal Road, Cupar, Fife, KY15 5YQ, chairperson of the Private Rented Housing Committee at Cupar on 9th April 2014 before this witness:-

M. SMITH

J. LEA

..... Witness

...

Chairman

Maxine Smith
Unit 3.5, The Granary Business Centre
Coal Road
Cupar
Fife



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

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Mr Peter Miller and Mrs Linda Miller, 105 Cocklaw Street, Kelty, Fife, KY4 0DG ("the Tenants")

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 both the Landlord and the Tenants at the hearing, 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 24 October 2013, the Tenants 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 Tenants stated that the Tenants considered that the Landlord had failed to comply with the duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that the house was wind and water tight and in all other respects reasonably fit for human habitation; that 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, that the installations in the house for 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 and that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire
3. 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 Tenants.
5. The Private Rented Housing Committee (comprising Ms Judith Lea, Chairman and Legal Member, Sara Hesp, Surveyor Member and John Blackwood, Housing Member) inspected the Property on 31 March 2014. The Tenants were present and the Landlord was represented by Barbara Nicol and Abigail at the inspection.
6. Following the inspection of the Property, the Private Rented Housing Committee held a hearing at Townhill Community Centre, Main Street, Dunfermline. Mrs Miller was present on behalf of the Tenants. Barbara Nicol and Abigail attended on behalf of the Landlord.
7. Mrs Miller explained that the Citizens Advice Bureau and the Council had suggested that she contact the Private Rented Housing Panel. She advised that the roof in the kitchen leaked whenever it rained and there was dampness on the back of the front door. The rain came in under the front door which caused puddles in the kitchen. She also indicated that the joist in the hall was a problem and her husband was a joiner and knew that this could potentially become a real problem.
8. She indicated that the boiler ignition did not work and her husband had to light it with a lighter. A meter had been installed a year and a half ago and when they ran out of money and the boiler went off, they had to use a lighter to re-ignite it. Mrs Miller advised that the gas man had suggested that they install a CO² meter and her husband had done this.
9. She advised the Committee that when it rained the gutters and downpipes were like a waterfall. One window in the kitchen would only open if you hit it with a hammer. She advised that the kitchen smelt and this affected her health as she had COPD. She advised that she washed the walls but they were still black.
10. Mrs Miller also confirmed that water came in above the cooker every time it rained and that the front door was so warped that they had to plane it at the bottom otherwise they could not get it open and shut. She indicated that the door was an internal door rather than an external door. She advised that her husband had installed a smoke alarm but she was not particularly bothered about this.
11. Abigail and Barbara made submissions on behalf of the Landlord. They lodged a letter from A & C Joinery which confirmed that the property had been inspected on 29 March and that the door was an external door but it had warped due to damp from the ceiling in the kitchen. The Joiner's letter also indicated that the joist problem was caused by a split in the tongue and groove flooring rather than the actual joist. The Joiner's letter further confirmed that the door would be replaced once the roof works had been completed.
12. An invoice was also lodged from David Cowan Building Services confirming that a scaffold had been erected and materials were to be provided to carry out repairs to the roof and the downpipes and gutters. Both these letters were shown to Mrs Miller. The Landlord's representatives confirmed that the scaffolding had been put up six weeks ago and the materials for repairing the roof and the downpipes and gutters had been ordered. It had not been possible for the work to be carried out due to the weather and difficulties in contacting the Tenants.

13. The Landlord's representatives advised that there was a gas safety certificate which could be provided to the Committee later today. Mrs Miller stated that she had a copy of something but she did not think that there had been a yearly gas inspection. The Landlord's representatives also indicated that the Landlord was happy to fit smoke alarms.
14. There was discussion with regard to the extractor fan in the kitchen which the Tenant had covered up. Mrs Miller stated that this was because it was broken but she confirmed that the heating worked fine apart from the boiler ignition.

Decision

15. The Tenants' evidence with regard to the ignition on the boiler not working was consistent with what she had put in her application. The Landlord's representatives indicated that the Landlord was not aware of this but the Landlord should have been aware of it given that it was mentioned specifically in the application to the Committee which the Landlord had a copy of. The Committee had safety concerns with regard to the Tenants having to light the ignition on the boiler. From the inspection it looked as if there was a problem with the ignition on the boiler. The Committee accordingly considered that this was a breach of Section 13 (1)(c) of the Act and made a Repairing Standard Enforcement Order in respect of the boiler ignition.
16. The Committee noted that the Landlord claimed to have an up to date gas safety certificate and that this would be produced today. The Committee considers it very important that there is an up to date gas safety certificate and included this in the terms of the Order.
17. In connection with the roof, gutters and downpipes, it was clear from the inspection that there was an ongoing problem with these and that there was water ingress into the property. The Committee considered this to be a breach of Section 13 (1)(a) and (b) of the Repairing Standard. The Landlord's representatives lodged an invoice from David Cowan Building Services to show that repairs were going to be carried out to the roof. The property in its present condition clearly does not meet the Repairing Standard and accordingly the Committee proceeded to make an Order in respect of the roof, gutters and downpipes.
18. In connection with the front door, there was a dispute between the Landlord and the Tenants as to whether this was an external door or internal door. Whichever type of door it is, it is clearly allowing water ingress at present which is a breach of Section 13 (1)(a) and (b). The Committee accordingly proceeded to make an Order that the Landlord either repair or replace the front door.
19. In connection with the joist, there was a dispute between the Landlord and the Tenants with regard to whether it was the joist or a split in the tongue and groove. From inspection it was clear to the Committee that the floor was a lot more springy than it should be and the Committee considered that this is a breach of Section 13 (1)(b). The Landlord will require to investigate the extent of the problem and repair it to ensure that it is in a reasonable state of repair.
20. The Landlord accepted that at present the Landlord had not provided any smoke alarms in the property. The Tenants have installed one smoke alarm in the back

hall. It is not clear what type of smoke alarm this is and whether it is working. The Landlord has not complied with Section 13 (1)(f) and the Committee accordingly proceeded to make an Order in respect of this. The Landlord should follow the guidance on satisfactory provision for detecting and warning of fires contained in the Advice Pack for Landlords, a copy of which is attached to this Decision, and install the necessary smoke alarms in the property.

21. The Landlord's representatives indicated to the Committee that the work could be done within a couple of weeks. Given the length of time that these issues have been outstanding the Committee considered that a timescale of one month was reasonable to allow this work to be done.
22. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1).
23. The decision of the Committee was unanimous.

Right of Appeal

24. **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

25. 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.

J. LEA

Signed
Chairperson

.....Date..... 9th April 2014