



## **Repairing Standard Enforcement Order**

### **Ordered by the Private Rented Housing Committee**

**Re Greystone, Kirkton, Dumfries, DG1 1 ST being the subjects registered in the land Register of Scotland under Title Number DMF17275 ('The Property')**

**The Parties:-**

**Gregory and Heidi Allison residing at Greystone, Kirkton, Dumfries, DG1 1ST ('The Tenants')**

**Euan James Mair and Lucy Joan Mair residing together sometime at at 14 Academy Street, Dumfries and now at Am Bach 40, Schwoich, 6334, Austria ('The Landlords')**

#### **NOTICE TO**

**The Landlords, the said Euan James Mair and Lucy Joan Mair residing together sometime at 14 Academy Street, Dumfries and now at Am Bach 40, Schwoich, 6334, Austria**

Whereas in terms of their decision dated 24<sup>th</sup> April 2014, 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 the Landlords have failed to ensure that the Property was wind and water tight and in all other respects reasonably fit for human habitation; that the structure and exterior of the property are in a reasonable state of repair and proper working order; that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and proper working order; that the fixtures and fittings and appliances provided by the Landlord under the Tenancy are in a reasonable state of repair and 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 Property 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 to:-

- (1) Effect repairs to render the roof and feature window in the kitchen and master bedroom wind and water tight.
- (2) Repair defective guttering above flat roof at kitchen.
- (3) Effect repairs to remove water ingress to kitchen floor.
- (4) Repair or replace faulty electrical sockets and electrical fans in the kitchen and en suite to render them in proper working order and provide a valid PIR certificate.
- (5) Effect necessary repairs to render the soak away in proper working order.
- (6) Effect necessary repairs to the kitchen units to render them in proper working order.
- (7) Effect necessary repairs to the defective TV aerial socket in the kitchen to render it in proper working order.

The Private Rented Housing Committee order that these works must be carried out and completed  
By 30th AUGUST 2014.

**A landlord 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.

Signed.....  
Chairperson  
..E Shedden

**J Tayler**

..... Date 24th April 2014

..... witness: ELIZABETH GIFFEN SHEDDEN, 65, High Street, Irvine



## **Determination by Private Rented Housing Committee**

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

**Re Greystone, Kirkton, Dumfries, DG1 1 ST being the subjects registered in the Land Register of Scotland under Title Number DMF17275 ('The Property')**

#### **The Parties:-**

**Gregory and Heidi Allison residing at Greystone, Kirkton, Dumfries, DG1 1ST ('The Tenants')**

**Euan James Mair and Lucy Joan Mair residing together sometime at 14 Academy Street, Dumfries and now at Am Bach 40, Schwoich, 6334, Austria represented by L J Residential, 184 Irish Street, Dumfries, DG1 2HJ ('The Landlords')**

#### **Decision**

**The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ('the Act') in relation to the Property, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Act.**

#### **Background**

- 1. By application dated 1<sup>st</sup> February 2014 the Tenants applied to the Private Rented Housing Panel for a determination of whether the Landlords have failed to comply with the duties imposed by Section 14 (1)(b) of the Act.**
- 2. The application by the Tenants stated that they considered that the Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. They advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation and that the structure and exterior of the Property was not in a reasonable state of repair and proper working order.**

**Further the application stated that:-**

- 1. The feature window leaks and water pours into the socket. The whole windows upstairs and downstairs need resealing and when dry fully varnished.**
- 2. Socket needs to be looked at.**
- 3. Water coming in through kitchen floor. Floor in the kitchen needs lifted up and looked at.**
- 4. Damp smell behind the wall, under the floor and roof repair all need to be looked at.**
- 5. Soak away not draining water away. Water needs to drain away and drain pipes need to be looked at.**
- 6. Kitchen sockets to oven and cooker/hob shorting out all of the power to the house. Urgently needs looked at as water and electricity are very dangerous.**
- 7. Roof repair needs looked at and also under the floor to see how dampness/ water is reaching the sockets.**
- 8. Repaint kitchen once all work has been completed.**
- 9. Heating in kitchen. This needs to be looked at.**

10. Mouldy en suite and extractor fan not working. The fan needs to be replaced and repainted.
  11. Television aerials need to be looked at.
  12. Decoration of bedrooms needs to be finished.
  13. Joiner/ builder should return to check that the kitchen units are on the wall properly.
  14. Kitchen extractor fans are not working correctly.
3. The President of the Private Rented Housing Panel, having considered the application, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee. The Committee members were Jacqui Taylor (Chairperson), George Campbell (Surveyor Member) and Jim Riach (Housing Member).
  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 Tenants, dated 6<sup>th</sup> February 2014.
  5. The Committee attended at the Property on 15<sup>th</sup> April 2014. Heidi Allison, one of the Tenants, the Landlords agents and Representatives Claire Brockie and Kirsten Learmont of L J Residential, 184 Irish Street, Dumfries, DG1 2HJ ('the Landlords' agents') were present.

The Landlord's agents explained that they were not opposed to the Tenants' application in principal and accepted that repairs are necessary.

The Committee inspected the alleged defects and found as follows:-

**5.1 The feature window leaks and water pours into the socket. The whole windows upstairs and downstairs need resealing and when dry fully varnished.**

A two storey rear extension had been built at the Property in recent years. The rear window of the extension was a feature window to both the master bedroom and kitchen below. The window had been constructed as one unit but was made of a number of wooden frame double glazed units. The Tenant explained that when it rains water comes through sections of the timber frames and gathers on the sills. It then leaks into the electrical socket located below the frame in the kitchen. She also explained that the Landlords' contractors had recently tried to repair the window and had externally applied sealant but this had unfortunately not prevented the water ingress.

**5.2 Sockets need to be looked at.**

The Committee saw evidence of damp staining above the electrical socket which is located below the feature window in the kitchen.

**5.3 Water coming in through kitchen floor. Floor in the kitchen needs lifted up and looked at.**

The Tenant explained that when it rains water comes up through the flooring in the kitchen and puddles in front of the kitchen units and the back door. The Landlords' representatives advised that they had seen this happen.

**5.4 Damp smell behind the wall, under the floor and roof repair all need to be looked at.**

The Tenant explained that when it rains there is a damp smell from underneath the floor and the kitchen walls. The Landlords' agents confirmed that they had experienced the damp smell in the Property.

**5.5 Soak away not draining water away. Water needs to drain away and drain pipes need to be looked at.**

The Tenant explained that when it rains water collects in the area outside the back door and does not properly soak away down the drain. The Committee saw

that there was a black water line at approximately the level of the back door sill confirming that water has collected in the area outside the back door.

**5.6 Kitchen sockets to oven and cooker/hob shorting out all of the power to the house. Urgently needs looked at as water and electricity are very dangerous.**

The Tenant explained that the cooker and hob wall switches short out and she suspects that water is getting into the sockets. As a result she turns the switches off after use.

**5.7 Roof repair needs looked at and also under the floor to see how dampness/water is reaching the sockets.**

The Committee noticed that there were sections of defective flashing to the roof area above the flat roof. Also the gutters and drainpipes above the flat roof appeared to be defective as they are diverting rain water onto the flat roof.

**5.8 Repaint kitchen once all work has been completed.**

The Tenant pointed out holes in the plaster where a vertical radiator had been removed. Also the Committee noticed that there was flaking paintwork near the kitchen window.

**5.9 Heating in kitchen. This needs to be looked at.**

The Tenant advised that the double radiator and a fan heater under the kitchen units had been installed recently by the Landlords. However she explained that she found the fan heater expensive to run and consequently did not use it. Also in the winter when she had used the new radiator she was not able to heat the kitchen above 17 degrees.

**5.10 Mouldy en suite and extractor fan not working. The fan needs to be replaced and repainted.**

The Committee noted that there was a small amount of black mould at the top of the tiles in the shower of the en suite. Also the extractor fan in the en suite did not work properly.

**5.11 Television aerials need to be looked at.**

The Tenant advised that the Television aerial socket in the kitchen was not working.

**5.12 Decoration of bedrooms needs to be finished.**

The Tenant pointed out that the paintwork to one half of the ceilings in the attic bedrooms had been painted and the other half had not. The Committee noticed that there were some dirty patches on the sections of the ceiling that had not been painted.

**5.13 Joiner/ builder should return to check that the kitchen units are on the wall properly.**

The Tenant explained that her husband had attached the kitchen units to the kitchen wall and they are not completely secure. She showed the Committee places where they were not firmly attached to the wall.

**5.14 Kitchen extractor fans are not working correctly.**

The Committee turned on the kitchen extractor fans and noted that they did not work properly as they blew the air instead of sucking the air into the air filters.

6. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Georgetown Community Centre, Lochvale House, Georgetown Road, Dumfries, DG1 4DF. The Tenants did not attend. The Landlords' agents and

Representatives Claire Brockie and Keirsten Learmont of L J Residential attended for the Landlords.

In relation to the matters detailed in the Tenant's application the Landlords' agents advised as follows:

**6.1 The feature window leaks and water pours into the socket. The whole windows upstairs and downstairs need resealing and when dry fully varnished.**

They confirmed that they had seen the video taken by the Tenants showing water running down the inside of the windows. They advised that they are not disputing that there is a problem. They agreed to email a copy of the video to the Committee.

**6.2 Socket need to be looked at.**

They confirmed that they had seen water running down the wall to the socket. They also explained that the Tenant turns the switches off after use as they are concerned about the sockets.

**6.3 Water coming in through kitchen floor. Floor in the kitchen needs lifted up and looked at.**

They confirmed that they had seen puddles of water at the back door and they are aware that there is a problem that needs to be sorted out.

**6.3 Damp Smell behind the wall, under the floor and roof repair all need to be looked at.**

They confirmed that the damp smell is noticeable after heavy rain.

**6.4 Soak away not draining water away. Water needs to drain away and drain pipes need to be looked at.**

They advised that the Landlords' contractor has inspected the soak away but he has not come up with a solution.

**6.5 Kitchen sockets to oven and cooker/hob shorting out all of the power to the house. Urgently needs looked at as water and electricity are very dangerous.**

They explained that before Christmas they had received a call from the Tenants saying that the electrics had tripped. Their electrician had found that water had been getting into the sockets.

**6.6 Roof repair needs looked at and also under the floor to see how dampness/ water is reaching the sockets.**

They explained that the Landlords' contractors had tried to repair the flat roof to sort out the problem of water ingress but unfortunately the repair was not effective.

**6.7 Repaint kitchen once all work has been completed.**

They confirmed that redecoration would be attended to once the dampness issues had been resolved.

**6.8 Heating in kitchen. This needs to be looked at.**

They explained that they consider the heating in the kitchen to be sufficient.

**6.9 Mouldy en suite and extractor fan not working. The fan needs to be replaced and repainted.**

They accepted that the extractor fan was not working correctly and that there was some mould to the tiles.

**6.10 Television aerials need to be looked at.**

They confirmed that the Landlords are happy to have the television aerial socket repaired.

**6.11 Decoration of bedrooms needs to be finished.**

They advised that some touch up paintwork had been carried out but they suggested that this is really a minor issue in relation to the dampness problems.

**6.12 Joiner/ builder should return to check that the kitchen units are on the wall properly.**

They explained that the Tenants had fitted the kitchen units as the Landlords' contractor was waiting for the wall to dry out before fitting the units to the wall.

**6.13 Kitchen extractor fans are not working correctly.**

They explained that they accept that the fans are not working properly.

**Summary of the issues**

The Committee considered that (1) the state of decoration of the kitchen and attic bedrooms referred to by the Tenant and (2) the small amount of mould in the en suite were not breaches of the Repairing Standard.

Therefore the issues to be determined are:-

**7.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).**

Whether the fact that the feature window in the kitchen and master bedroom lets in water; the water ingress to the kitchen floor; the damp smell in the kitchen and the water ingress to the roof results in the Property not being wind and water tight and in all other respects reasonably fit for human habitation

**7.2 The structure and exterior of the Property (including drains, gutters and external pipes) was not in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).**

Whether the condition of the soak away results in the Property not being in a reasonable state of repair and in proper working order.

**7.3 The installations in the property 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 (Section 13(1)(c) of The Housing (Scotland) Act 2006).**

Whether the condition of the kitchen sockets and heating in the kitchen results in the Property not being in a reasonable state of repair and in proper working order.

**7.4 Any fixtures, fittings and appliances provided by the Landlords under the Tenancy are in a reasonable state of repair and in proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).**

Whether the condition of the kitchen units; the extractor fans in the kitchen and en suite and the television aerial socket in the kitchen results in the Property not being in a reasonable state of repair and in proper working order.

## Findings of fact

The Committee found:-

- 8.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

The Committee viewed the video sent to them by the Landlords' agents. They saw water seeping through the feature window in the kitchen and master bedroom acknowledged that the feature window was not water tight.

They were aware of the high level of garden ground at the rear of the Property and the likelihood that water was seeping under the back door sill. They accordingly accepted the Tenants and Landlords' agents description of water forming puddles on the kitchen floor and the damp smell when it rains.

They noted the defective guttering, drainpipes and lead flashings above the flat roof and consequently accepted the Tenants' description of water ingress to the kitchen walls when it rains.

The Committee therefore determined that the property was not wind and watertight.

- 8.2 The structure and exterior of the Property (including drains, gutters and external pipes) was not in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

The Committee had noted the waterline to the walls outside the backdoor and accepted the evidence of the Tenant and the Landlords' agents that the water pools outside the back door when it has been raining.

The Committee determined that these defects result in the soak away not being in a reasonable state of repair and proper working order.

- 8.3 That the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order (Section 13(1)(c) of The Housing (Scotland) Act 2006).

The Committee accepted the Tenant's and Landlords agents' description of the defective kitchen sockets and found that they are not in a reasonable state of repair and in proper working order.

At the inspection the Committee saw that the radiator in the kitchen and the fan heater that had been fitted under the kitchen units were in proper working order and therefore considered the heating in the kitchen to be in a reasonable state of repair and proper working order.

- 8.4 Any fixtures, fittings and appliances provided by the Landlords under the Tenancy are in a reasonable state of repair and in proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

The Committee saw that the kitchen units were not firmly attached to the kitchen wall. Also they had turned on the extractor fans in the kitchen and en suite and suite and found that they were defective.

The Committee accepted the Tenant's and Landlords' agents' description of the defective Television aerial socket in the kitchen.

The Committee accepted that these defects results in the Property not being in a reasonable state of repair and in proper working order.



### **Decision**

9. The Committee accordingly determined that the Landlords had failed to comply with the duties imposed by Sections 13 (1)(a) and 13(1)(b), and 14 of the Act, as stated.
10. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1). The Repairing Standard enforcement Order has a time limit of the 30<sup>th</sup> August 2014 for the Landlords to carry out works necessary to bring the property up to the repairing standard.
11. The decision of the Committee was unanimous.

### **Right of Appeal**

12. 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**

13. 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 .....  
Chairperson

**J Tayler**

..... Date 24<sup>th</sup> April 2014