



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref:PRHP/RP/14/0120

Re : Re 21 Blythswood Crescent, Largs, KA 30 8HX being the subjects registered in the Land Register of Scotland under title number AYR33954 ('the Property')

The Parties:-

Mrs Jacqueline Bond- Gillespie (The Tenant'), residing at the Property

Mr Robert William Owen, care of Acre Lettings Ltd, 6 Stanlane Place, Largs, Ayrshire,

NOTICE TO ROBERT OWEN ("the Landlord")

Whereas in terms of their decision dated 22ND August 2014 the Private Rented Housing Committee determined that the landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act") and, in particular, that the landlord has failed to ensure that the property meets the repairing standard in terms of the Act as follows:

The house is not wind and watertight and in all other respects reasonably fit for human habitation; Fixtures, fitting and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order. (Sections 13(1)(a) and 13(1)(d) of the Act), 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 work in terms of this Order is made good. In particular the Private Rented Housing Committee requires the landlord:-

- (a) to replace front door seals to ensure that there is an effective seal to prevent draughts,
- (b) to repair or replace the carpet in the hall so that it no longer constitutes a trip hazard and
- (c) to carry out work to prevent moisture entering the exposed aperture in the cooker extractor hood by either installing an appropriate transparent panel or replacing the cooker extractor hood.

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

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a repairing standard enforcement order commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a repairing standard enforcement order has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the preceding page(s) are executed by Martin Joseph McAllister, solicitor, chairperson of the Private Rented Housing Committee at Saltcoats on 22nd August 2014 before this witness:-

S Harvey _____ witness

M McAllister _____ chairman

Sharon Harvey name in full
51 Hamilton Street, Saltcoats,
KA21 5 DX

SECRETARY Occupation

22ND August 2014



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

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Re 21 Blythswood Crescent, Largs, KA 30 8HX being the subjects registered in the Land Register of Scotland under title number AYR33954 ('the Property')

The Parties:-

Mrs Jacqueline Bond- Gillespie (The Tenant'), residing at the Property

Mr Robert William Owen, care of Acre Lettings Ltd, 6 Stanlane Place, Largs, Ayrshire, KA30 8DA

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 in relation to the Property, determined that the Landlord has failed to comply with the said duty and made a repairing standard enforcement order.

Background

1. By application dated 1ST April 2014 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord has 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 landlord had failed to comply with the duty to ensure that the Property meets the repairing standard. The application contended that the Property is not wind and watertight and in all respects reasonably fit for human habitation; that the structure and exterior of the house (including drains, gutters and external pipes are not in a reasonable state of repair and in proper working order and that fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order.
In particular the application stated that:-
 - 3.1 There is a defective carpet in the entrance hall.
 - 3.2 There are windows that do not open or close easily and there are windows where there are draughts. There are windows where the seals are not good.
 - 3.3 There is damp ingress in the main bedroom with staining.
 - 3.4 There is dampness and mould around a bedroom window.
 - 3.4 There are defective front door seals.
 - 3.5 The extractor hood in the kitchen has a cover missing from its light causing steam from cooking to get into wiring and light bulbs.
 - 3.6 Roughcast is falling off walls

- 3.7 There is subsidence immediately outside the back door restricting access to rear garden.
- 3.8 A badly boarded up fireplace is causing draughts in the living room.
- 3.9 External pipes are in a bad state of repair.
- 3.10 The satellite dish is badly rusted and it is at risk of falling off the wall.
- 3.11 The bathroom fittings are in a poor state of repair.
- 3.12 The extractor fan in the bathroom does not extract effectively
- 3.13 The shower screen seal has a split in it.
- 3.14 A defective board at the front of the house above the door.

4. The President of the Private Rented Housing Panel, having considered the application, referred the application under Section 23 (1) of the Act to a Private Rented Housing Committee. The Committee members are **Martin McAllister (Chairperson)**, **Alex Carmichael (Surveyor Member)** and **Jim Riach (Housing Member)**.

5. The Private Rented Housing Panel served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant, dated 9th June 2014.

6. The members of the Private Rented Housing Committee inspected the property on 15th August 2014 and found that the property is a three apartment mid terrace villa in the region of sixty years old. The property appeared to be of traditional construction with brick solid and brick cavity outer walling. The floor throughout appear to be timber boarded on suspended joists. The timber pitched roof is finished with tiles. In relation to the matters raised by the tenant in her application and with reference to the repairing standard in terms of Section 13 of the Act the members of the Committee found:

7.1 Issue of whether or not the Property is wind and watertight and in all respects reasonably fit for human habitation.

The front door has an ineffective seal. Damp staining was observed in the main bedroom and it was noted that a chimney stack had been removed subsequent to the application being made. The damp staining was in the area of what would previously have been the chimney wall. Damp readings were noted. Windows were opened and closed and appeared to be operating effectively with working seals. Damp staining was noticed to the kitchen ceiling and the tenant advised that there had been a leak from a joint in the area of the bath and that this had been repaired. An area of mould was observed above the bay window in the bedroom. The tenant said that it is able to be cleaned off and that she had not cleaned it all because she wanted the members of the Committee to be able to see it. A fireplace in the lounge had been boarded up, did not have a vent and recently had installed a replacement piece of skirting.

7.2 Issue of whether or not 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.

The Committee observed long standing minor subsidence to an area outside the back door and bossing and defective roughcasting to the wall adjacent to a patio and to other external walling. The Committee noted corroded downpipes and gutters and that there was a satellite dish to the front of the property which is corroded but appeared to be firmly attached to the wall. It was noted that there was defective render to the soffit at the front door.

7.3 Issue of whether or not the fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.

The extractor fan in the bathroom was not effective because it requires to be cleaned. The carpet at the bottom of the stairs is ripped. There is an extractor cooker hood with a built in

light. The cover for the light is missing and the light bulbs and wiring is exposed. A shelving unit in the bathroom was discoloured.

8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at the Woodhouse Hotel, Largs. The Tenant attended the hearing. The landlord was not present and was represented by his agent Mr John Corrigan of Acre Lettings Ltd who had also been present at the inspection.

Preliminary Matter

Mr Corrigan confirmed that he was the agent of Mr Robert Owen and was authorised to represent him at the Hearing.

8. Summary of the issues

Sections 13(1) (a) (b) and (d) of The Act provide that the Property must be wind and watertight and in all respects reasonably fit for human habitation, the structure of the house (including drains, gutters and external pipes) must be in a reasonable state of repair and in proper working order and any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.

The specific issues to be addressed are:

Evidence of dampness in the main bedroom and the kitchen, faulty windows, front door seals, roughcast defects, subsidence outside back door, external pipes and gutters, satellite dish, bathroom fittings, extractor fan in bathroom, shower screen, defective soffit at front door, boarded up fireplace in the lounge, extractor hood in the kitchen, defective hall carpet.

9. Evidence

The tenant said that the chimney had been removed after she had submitted the application but she said that she still considered there was a plaster smell in the main bedroom when it rains heavily. Mr Corrigan said that the chimney had been removed and the roof had been tiled over and he believed that matters had been resolved. He said that there had been some delay in the chimney being removed because it was a common chimney and that it was his company that had arranged for the work to be done. He said that the work had been done in April 2014.

The tenant said there was mould over the bay window in the main bedroom but that she was able to clean this off. Mr Corrigan indicated that he believed this to be condensation.

The tenant stated that there had been a leak in a joint in the area of the bath and that this had caused damp staining to the ceiling in the kitchen and she felt it was still damp.

The tenant said that there were problems with windows and that seals were not effective and some windows were difficult to open and close. Mr Corrigan said that the windows had been oiled by a joiner.

The tenant said that she had not been getting television reception and that this had been resolved by an engineer who had told her that he thought the satellite dish was ready to fall off. Mr Corrigan indicated that he did not consider that the satellite dish was in danger of falling off. The tenant said that the downpipes and gutters are rusty.

The tenant said that there had been a draught in the lounge where there had been a fireplace. Mr Corrigan said that a joiner had fitted a piece of skirting and the tenant conceded that matters had improved but she felt that there was still a draught. Mr Corrigan said that he believed that matters would have been improved with the removal of the chimney stack.

The tenant said that the extractor fan in the bathroom was ineffective but she conceded that there was an opening window in the bathroom. She said that she had removed the seal in the shower screen because there was a split in it and that she had to use towels to block the gap between the bath and the screen. Mr Corrigan said that he considered that the situation would have been better if the tenant had not removed the seal.

The tenant said that the metal shelving unit in the bathroom was marked.

The tenant said that the carpet in the hall had been torn when she took on the tenancy and that she had to tape it up. She said that the tape had been removed for the inspection. She also stated that the front front door seals were ineffective and caused draughts. The tenant said that there is a panel missing from the light built in to the cooker extractor hood. She said that steam from cooking goes into the exposed area causing sparking and flickering lights.

In summing up the tenant said that she had tried on numerous occasions to get Acre lettings to deal with the defects.

Mr Corrigan said that many of the issues raised in the course of the application and the Hearing were minor, that major items such as the removal of the chimney stack had been attended to and that he had nine invoices for work carried out to the property since the tenancy had commenced.

10. Findings in fact

The Committee found

10.1 There is no evidence of ongoing dampness issues in the main bedroom or kitchen and in both locations there seems to be ongoing drying out of plaster.

10.2 There is mould in the main bedroom caused by condensation.

10.3 The windows in the property are operating effectively

10.4 There is defective, cracked, loose and bossed roughcast to the patio wall and external walling.

10.5 There are gutters and downpipes which are corroded and in need of maintenance.

10.6 The satellite dish is corroded and appears securely fixed to the wall.

10.7 There is a crack in the seal of the shower screen.

10.8 There is a defective soffit and the front door which requires to be repaired.

10.11 There is a blocked up fireplace in the lounge without a vent and where there is no evidence of a draught.

10.12 The extractor fan in the bathroom is not operating effectively and requires to be cleaned.

10.13 The shelving unit in the bathroom requires to be cleaned.

10.14 There is a missing panel in the cooker extractor hood and, as a consequence, wiring and light bulbs are exposed.

10.15 There is torn section of carpet at the bottom of the stair treads which is a trip hazard.

10.16 There is a defective seal at the front door.

10.17 There is minor subsidence in the rear garden consistent with the age of the property.

11 Reasons

- 11.1 The committee accepted the evidence of the tenant with regard to the carpet, the front door seal and the cooker hood. These were also confirmed at the inspection.
- 11.2 The tenant's evidence in relation to the existence of damp areas in the kitchen and main bedroom was considered but the Committee considered that there was no evidence that this was not as a result of the drying out process since the repairs had been carried out relatively recently. The Committee considered that, on balance the plaster in these areas is still drying out. The Committee also considered that the mould in the main bedroom is as a result of condensation and it came to that view as a result of what was observed at inspection and the fact that the tenant stated in evidence that she was able to clean it off.
- 11.3 The committee did not accept the tenant's evidence that there were any issues with the windows and it came to that view as a result of what had been observed at inspection.
- 11.4 The defective roughcast, corroded downpipes and corroded satellite dish were observed at inspection. It was also observed that the satellite dish appeared to be firmly attached to the wall and the tenant's evidence on that matter was not accepted.
- 11.5 A member of the committee operated windows and found them to be operating effectively.
- 11.6 It was observed that there is minor subsidence in the rear garden and a soffit board at the front of the house requires to be repaired.
- 11.7 A split in the shower screen seal was noted at inspection.
- 11.8 The tenant accepted that the draught in the lounge where there had been a fireplace had improved when a piece of skirting had been fitted and the committee also considered that the removal of the chimney stack would have improved if not resolved the issue.
- 11.9 The extractor fan in the bathroom is not operating effectively and the committee considered that cleaning would improve its efficacy and that cleaning would improve the appearance of the bathroom shelving unit.
- 11.10 Upon inspection it was noted that there is a tear in the hall carpet and the committee formed the view that this is a trip hazard.
- 11.11 Upon inspection it was noted that a panel is missing from the cooker extractor hood allowing the possibility of moisture affecting electrical wiring
- 11.12 Upon inspection it was noted that the front door seal was faulty and the tenant's evidence of there being draughts in this area was accepted.

Decision

The committee had to determine whether or not there are any of its findings in fact that constituted a failure by the landlord to ensure that the property meets the repairing standard in terms of the duty imposed by Section 14 of the Act.

With the exception of three matters that the committee finds brings the property below the repairing standard in terms of the Act any other defects found by it do not.

The three matters are:

The carpet is supplied by the landlord and in terms of Section 13(1) (d) of the Act it falls below what is required by the repairing standard. It is a hazard and could cause someone to trip. The cooker extractor hood presents another safety issue and is an appliance supplied by the landlord in terms of Section 13(1) (d) of the Act. Electrical wiring is exposed and there is a possibility of moisture entering the aperture during cooking or cleaning.

The faulty door seal at the front door means that the property does not meet the requirement of Section 13(1) (a) of the Act.

The Committee accordingly determined that the Landlord has not complied with the duties imposed by Section 14(1)(b), of the Act and determined that a repairing standard enforcement order be made in the following terms:

1. **The landlord has to replace the door seals at the front door so that there is an effective seal to prevent draughts.**

2. The landlord is to repair or replace the carpet in the hall so that it no longer constitutes a trip hazard.
3. The landlord is to carry out work to prevent moisture entering the exposed aperture in the cooker extractor hood by either installing an appropriate transparent panel or replacing the cooker extractor hood.

The landlord is required to carry out the work within twenty eight days of intimation of the repairing standard enforcement order.

The decision of the Committee was unanimous.

Right of Appeal

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

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 . **M McAllister** 22ND August 2014
Martin J. McAllister
Chairperson