



## **Repairing Standard Enforcement Order**

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

**Property at Addiewell, Glasgow Road, Sanquhar, DG4 6BZ being the subjects registered in the Land Register of Scotland under Title Number DMF 17696 ('the Property')**

**Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('the Third Party Applicant')**

**Michael John Monk and Susan Anne Monk residing at 174 Liverpool Road, Hutton, Preston, PR4 5SL represented by Ober Estates, Knockburnie Farm, Dalleagles, New Cumnock, KA18 4QP ('the Landlords')**

**Ms Linda Frances Hurle residing at Addiewell, Glasgow Road, Sanquhar, DG4 6BZ ('the Tenant')**

**PRHP Ref: PRHP/RT/16/0254**

**The Committee members were Jacqui Taylor (Chairperson) and Mike Links (Surveyor Member).**

#### **NOTICE TO**

**The said Michael John Monk and Susan Anne Monk residing at 174 Liverpool Road, Hutton, Preston, PR4 5SL represented by Ober Estates, Knockburnie Farm, Dalleagles, New Cumnock, KA18 4QP**

Whereas in terms of their decision dated 11<sup>th</sup> September 2016, 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 is wind and water tight and in all other respects reasonably fit for human habitation and that the structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and proper working order; 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; any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and proper working order and the Property 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 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. Repair or replace the defective roof covering of the garden shed.
2. Exhibit to the PRHP Administration current and compliant EICR and PAT certificates confirming that the electrical installations in the Property and the electric fire in the Property is safe and in proper working order and that the smoke and heat detectors are in proper working order and comply with the repairing standard.
3. Exhibit to the PRHP Administration a current and compliant gas safety certificate for the Property.

The Private Rented Housing Committee order that the works must be carried out and completed by 15<sup>th</sup> October 2016.

**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. In witness whereof these presents type written on this and the preceding page are executed by Jacqueline Taylor, solicitor, 65, High Street, Irvine, chairperson of the Private Rented Housing Committee at Irvine on 12th September 2016 before this witness:-

Signed..... Date 12<sup>th</sup> September 2016  
JACQUELINE TAYLOR, Chairperson

.....witness: KEIRSTEN BYRNE, 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**

**PRHP Ref: PRHP/RT/16/0254**

**Property at Addiewell, Glasgow Road, Sanquhar, DG4 6BZ being the subjects registered in the Land Register of Scotland under Title Number DMF 17696 ('the Property')**

**Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('the Third Party Applicant')**

**Michael John Monk and Susan Anne Monk residing at 174 Liverpool Road, Hutton, Preston, PR4 5SL represented by Ober Estates, Knockburnie Farm, Dalleagles, New Cumnock, KA18 4QP ('the Landlords')**

**Ms Linda Frances Hurlle residing at Addiewell, Glasgow Road, Sanquhar, DG4 6BZ ('the Tenant')**

**The Committee members were Jacqui Taylor (Chairperson) and Mike Links (Surveyor Member).**

#### **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 Property, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Act.**

#### **Background**

1. The Third Party Applicant 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 Housing (Scotland) Act 2006 ("the Act").

2. The application stated that they considered that the Landlords have failed to comply with his 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; the structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and are not in proper working order; any fixtures, fittings and appliances provided by the Landlords under the tenancy are not in a reasonable state of repair and proper working order; any furnishings provided by the Landlords under the tenancy are not capable of being used safely for the purpose for which they are designed and the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

In particular the application stated:-

2.1. The Tenant complained of rainwater penetration under the rear external door and collecting on the sill of the French doors to the rear of the Property.

2.2. The rainwater downpipe to the rear of the Property is overflowing from the top of the pipe due to a blockage.

2.3. The guttering to the rear of the Property has a build- up of loose moss resulting in rainwater overflowing over the back door.

2.4. The Tenant claimed that the guttering to the front of the Property regularly overflows due to a blocked downpipe.

2.5. The shed in the rear garden is missing parts of the felt roof covering resulting in rainwater penetration within the shed.

2.6. The Tenant has not received a copy of the EICR or PAT report for the Property.

2.7. The Tenant has not received a copy of the recent Gas Safety inspection.

2.8. The Tenant is concerned about the electric fire in the living room sparking when turned off which was confirmed by the electrician who carried out the EICR.

2.9. No smoke detector in the main living space.

2.10. No heat detector in the kitchen area.

3. The application also stated that the Tenant of the Property is Ms Linda F Hurle ('The Tenant')

4. The President of the Private Rented Housing Panel, having considered the application, comprising documents received on 22<sup>nd</sup> July 2016, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee.

5. The Committee members were Jacqui Taylor (Chairperson) and Mike Links (Surveyor Member).

6. The President of The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlords, Dumfries and Galloway Council and, for information purposes, on the Tenant dated 3<sup>rd</sup> August 2016.

7. Alan Glendinning, HMO Licensing and Landlord Registration Manager of Dumfries and Galloway Council wrote to the PRHP Administration on 8<sup>th</sup> August 2016 when he advised that the Tenant had confirmed that the smoke and heat detectors had been installed, the blocked guttering and downpipes had been cleared but this had revealed a leak in the joints in the guttering.

8. The Committee attended at the Property on 8<sup>th</sup> September 2016. The parties had been advised that the Committee would attend at the Property at 10am on 8<sup>th</sup> September 2016. Ms LF Hurle had telephoned the PRHP administration at 9 am on 8<sup>th</sup> September 2016 advising that she had an emergency and would not be able to provide access to the Committee at 10am. Accordingly when the Committee attended at the Property for the scheduled inspection no internal access was provided. However the Committee were able to inspect the Property

externally. The Property is a detached modern two storey property which was built approximately 8 years ago, with double glazed windows throughout.

Alan Glendinning of Dumfries and Galloway Council was present at the inspection.

There was very heavy rain during the inspection.

Where possible, the Committee inspected the alleged defects and found:-

**8.1. The Tenant complained of rainwater penetration under the rear external door and collecting on the sill of the French doors to the rear of the Property.**

The Committee were able to see into the Property through the French doors at the rear and saw no evidence of water ingress or puddling inside the doors. There was very heavy rain at the time of the inspection and had the French doors leaked the Committee would have been able to see water ingress through the glazed French doors.

**8.2. The rainwater downpipe to the rear of the Property is overflowing from the top of the pipe due to a blockage.**

The rainwater down pipes were working correctly, there were no leaks evident and the leaves had been cleared.

**8.3. The guttering to the rear of the Property has a build- up of loose moss resulting in rainwater overflowing over the back door.**

The guttering at the rear of the Property had been cleared, there were no leaks evident and the guttering was working correctly.

**8.4. The Tenant claimed that the guttering to the front of the Property regularly overflows due to a blocked downpipe.**

The guttering at the front of the Property had been cleared, there were no leaks evident and the guttering was working correctly.

**8.5. The shed in the rear garden is missing parts of the felt roof covering resulting in rainwater penetration within the shed.**

The felt roof covering of the garden shed had not been repaired, parts were missing at the inspection.

**8.6. The Tenant has not received a copy of the EICR or PAT report for the Property.**

As the Tenant was not at the inspection and as access had not been provided this point could not be verified.

**8.7. The Tenant has not received a copy of the recent gas safety inspection.**

As the Tenant was not at the inspection and as access had not been provided this point could not be verified

**8.8. The Tenant is concerned about the electric fire in the living room sparking when turned off which was confirmed by the electrician who carried out the EICR.**

As the Tenant was not at the inspection and as access had not been provided this point could not be inspected.

**8.9. No smoke detector in the main living space.**

The Committee were able to look through the window of the Property and confirm that a hardwired smoke detector had been installed.

**8.10. No heat detector in the kitchen area.**

The Committee were able to look through the window of the Property and confirm that a heat detector had been installed in the kitchen area.

External photographs were taken during the inspection and are attached as a Schedule to this report.

9. Following the inspection of the Property the Private Rented Housing Committee were scheduled to hold a hearing at Sanquhar Town Hall, Church Road, Sanquhar, DG4 6DF. Unfortunately, despite having booked the venue the Town Hall was closed. Neither the Tenant nor the Landlord attended at Sanquhar Town Hall for the hearing. However Alan Glendinning of Dumfries and Galloway Council attended at the Town Hall for the hearing. To avoid the hearing having to be adjourned, the Committee held the hearing in a car parked close to the Town Hall.

In respect of the matters in the application Alan Glendinning advised that he had carried out an inspection of the Property on 4<sup>th</sup> July 2016 and framed the application following that inspection. He confirmed that during the inspection the Tenant had advised him that she was concerned about the electric fire sparking when it was turned off. He had subsequently obtained verbal confirmation from the Tenant that the EICR had been completed recently but a copy had not been sent to the Tenant or himself. The Tenant also advised that a Gas Safety Report had been completed on 22<sup>nd</sup> June 2016 but a copy had not been provided to the Tenant or himself. He had asked the Landlords to provide copies in his letter to him dated 5<sup>th</sup> July 2016.

**10. Summary of the issues**

The issues to be determined are:-

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

Whether the french doors, downpipes, rear and front gutters and the roof of the garden shed are in a reasonable state of repair and proper working order.

10.2 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 in proper working order (Section 13(1)(c) of The Housing (Scotland) Act 2006).

Whether the electrical and gas installations in the property are in a reasonable state of repair and proper working order.

10.3 That the fixtures, fittings and appliances provided by the Landlord under the tenancy were not in a reasonable state of repair and in proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

Whether the electric fire is in a reasonable state of repair and proper working order.

10.4 That the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (Section 13(1)(f) of The Housing (Scotland) Act 2006).

Whether the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

## **11. Findings of fact**

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

There was very heavy rain falling during the inspection and the Committee were able to confirm that the French doors did not leak. They were also able to confirm that the downpipes, rear and front gutters were working correctly as there was no evidence of water overflowing and consequently they determined that they were in proper working order.

The Committee saw that the roof felt was missing from the roof of the garden shed and consequently they determined that the roof of the garden shed was not wind and water tight.

11.2 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 in proper working order (Section 13(1)(c) of The Housing (Scotland) Act 2006).

The Committee accepted the evidence of Alan Glendinning that he had written to the Landlord requesting that he provide copies of the EICR and Gas Safety Certificate but the Landlord had not provided the copies requested. As the Landlords had not produced any evidence that the electrical and gas installations are safe and in proper working order they determined that they are entitled to take the inference that they are not in a reasonable state of repair and in proper working order.

11.3 That the fixtures, fittings and appliances provided by the Landlord under the tenancy were not in a reasonable state of repair and in proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

The Committee accepted that evidence of Alan Glendinning that the Tenant had advised him that the electric fire was sparking when it was turned off and as the Landlords had provided no evidence that the fire was in a safe condition they determined that they are entitled to take the inference that the electric fire is not in reasonable state of repair and proper working order.

11.4 That the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (Section 13(1)(f) of The Housing (Scotland) Act 2006).

The Committee acknowledged that the statutory guidance requires:

- One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.
- One functioning smoke alarm in every circulation space, such as hallways and landings.
- One heat alarm in every kitchen.

- All alarms should be interlinked.

The Committee acknowledged that they had seen smoke alarms and heat detectors in the Property but as they had not been given access to the Property they had been unable to test them and consequently they could not determine if the Property has satisfactory provision detecting fires and for giving warning in the event of fire or suspected fire.

### **Decision**

12. The Committee accordingly determined that the Landlords had failed to comply with the duties imposed by Sections 13 (1)(a), 13(1)(b), 13(1)(c), 13(1)(d) and 13(1)(f) of the Act, as stated.

13. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

14. The decision of the Committee was unanimous.

### **Right of Appeal**

**15. 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**

16. 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 Taylor

Signed .....  
Chairperson.



..... Date 11<sup>th</sup> Setember 2016

## SCHEDULE OF PHOTOGRAPHS

“Addiewell” Glasgow Rd, Sanquhar DG4 6BZ



Front Elevation



Sill at LR patio door



Gutter/downpipe at rear elevation



Garden shed



Rear elevation

J Taylor