



## **Repairing Standard Enforcement Order**

**Ordered by the Private Rented Housing Committee**

**Title Number DMF9570**

**Re: The residential dwellinghouse at**

**2 Grange Road  
Moffat  
DG10 9HT**

**(“the Property”)**

**The Parties:-**

**Ms F Clark resident at the Property**

**(“the Tenant”)**

**and**

**Mr B Ryder  
The Hammerlands  
Holme Road  
Moffat  
DG10 9QL**

**(“the Landlord”)**

### **NOTICE TO THE LANDLORD**

Whereas in terms of their decision dated 27 May 2011, 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 and in particular that the Landlord had failed to ensure that:-

- (a) the Property was wind and water tight and in all respects reasonably fit for human habitation;
- (b) the structure and exterior of the Property (including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order;

- (c) the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water were in a reasonable state of repair and in proper working order.

The Private Rented Housing Committee now requires the Landlord to carry out such works as are 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 Landlord to:-

- (a) repair the roof of the extension at the rear of the Property to ensure that it is in proper working order;
- (b) unblock the drain at the door of the extension and ensure that it is in proper working order;
- (c) investigate the cause of the dampness in the external wall between the front door and the downstairs WC and carry out such works as are necessary to ensure that the dampness is eradicated and that the wall is water tight;
- (d) investigate the cause of dampness in the internal wall in the upstairs bedroom and carry out such works as are necessary to ensure that the dampness is eradicated and that the Property is water tight;
- (e) carry out such works as are necessary to ensure that the system for space heating and heating water within the Property is in proper working order and in a reasonable state of repair;
- (f) provide the Tenant and the Committee with a valid Landlord's Gas Safety Certificate which relates to the system for space heating and heating water within the Property;
- (g) make good any damage to the plasterwork and the decorations resulting from the remedial works carried out in accordance with this Order.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of six weeks 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.

In witness whereof this and the preceding pages are subscribed by Ronald G Handley, solicitor, chairperson of the Private Rented Housing Committee at Dunbar on 27<sup>th</sup> day of May 2011 before this witness:-

**J Handley**

witness

**R Handley**

chairperson

JANE HANDLEY name in full

23 LESLIE WAY address of witness

DUNBAR

EH42 1GP

COLLEGE MANAGER occupation



**Decision by the Private Rented Housing Committee**

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

**Title Number DMF9570**

**Re: The residential dwellinghouse at**

**2 Grange Road  
Moffat  
DG10 9HT**

**("the Property")**

**The Parties:-**

**Ms F Clark resident at the Property**

**("the Tenant")**

**and**

**Mr B Ryder  
The Hammerlands  
Holme Road  
Moffat  
DG10 9QL**

**("the Landlord")**

**The Committee comprised:**

**Mr Ron Handley – Chairperson  
Mr Mike Links – Surveyor  
Mr Jim Riach – Housing Member**

**The Committee's Decision**

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, and taking account of the written evidence before it, unanimously determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b). The Committee therefore requires that the

Landlord carries out such works as are necessary for ensuring that the Property meets the Repairing Standard and that any damage caused by the carrying out of any work in pursuance of this Order is made good. The Committee issued a Repairing Standard Enforcement Order as annexed to this Statement of Reasons.

### **The Background**

1. On 15 February 2011 the Tenant applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act.
2. Following receipt of the Tenant's application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee in accordance with Section 22(1) of the Act.

### **The Application**

3. In her application the Tenant alleged that the Landlord had failed to comply with his duty to ensure that the Property met the Repairing Standard (as defined in the Act). It was submitted that the Landlord had failed to ensure that the Property was wind and water tight and in all respects reasonably fit for human habitation; that the structure and exterior of the Property (including drains, gutters and external pipes) were in a reasonable state of repair and in 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 were in a reasonable state of repair and in proper working order.
4. In particular the Tenant submitted in her Application Form that the flat roof on the extension at the rear of the Property leaked when there was heavy rain and that the drain (at the rear of the Property) blocked with rainwater. It was suggested that the back door did not fit properly. The guttering at the front of the Property leaked and this resulted in dampness in the hallway. There was also dampness in the upstairs bedroom – when there was heavy rain, water ran down the wall. It was also suggested that the gas boiler was not working efficiently and only supplied hot water if the central heating was on. The boiler also switched off if the hot water was running. The Tenant advised that she had requested a copy of the Gas Safety Certificate but had not received this document.

### **The Evidence**

5. The Committee had before it documents which included Land Register documents, a copy of the Application Form, a copy of the Tenancy Agreement and various letters sent by the PRHP to the Tenant and the Landlord. The Committee also had a copy of the Tenant's letters to the Landlord dated 8 August 2010, 12 November 2010 and 7 and 24 February 2011.

### **The Inspection**

6. The Committee inspected the Property on 17 May 2011 at 1.00pm. The Tenant was present at the inspection. The Landlord did not attend.

### **The Hearing**

7. A Hearing was arranged for 1.45pm in the Buccleuch Arms Hotel, Moffat. The Tenant attended the Hearing but the Landlord did not and was not represented.
8. The Chairman welcomed the Tenant to the Hearing and reminded her of the issues to be considered by the Committee.
9. The Tenant told the Committee that the roof in the extension leaked when there was heavy rain. She explained that the leaks did not occur in any one specific area. She told the Committee that although the Landlord had not seen the roof leaking, he was aware of this problem.
10. In regards to the boiler the Tenant advised that there appeared to be a problem with maintaining pressure. The boiler also switched itself off. Furthermore water could only be heated if the central heating was switched on. She advised that the Landlord had not made available to her a copy of the Gas Safety Certificate.
11. The Committee advised the Tenant that following the inspection it was accepted that there were areas of dampness in the external wall at the front door of the Property and in the internal wall in the upstairs bedroom.

### **Summary of the issues**

12. The issue to be determined by the Committee was whether the Landlord had complied with the requirements of the Act in ensuring that the Property met the Repairing Standard.

### **Findings**

13. The Committee found the following facts to be established:
  - On 11 June 2010 the Tenant and the Landlord entered into a Tenancy Agreement that related to the Property.
  - The Property is a three room, terraced, two-storey dwelling house. The Property comprises a kitchen, living room, two bedrooms, bathroom, downstairs WC and an extension (to the rear of the property).
  - The Property is heated by a gas central heating system.
  - The roof of the extension leaks and is not in a reasonable state of repair.

- The external drain at the door of the extension at the rear of the Property is blocked and not in proper working order.
- The external door of the extension fits properly and is in a reasonable state of repair.
- There is dampness in an area of wall between the front door and the downstairs WC.
- There is dampness in the internal wall in the upstairs bedroom.
- The gas boiler is not in a reasonable state of repair and not in proper working order.
- The Landlord has not provided the Tenant with a Landlord's Gas Safety Certificate that relates to the system for space heating and heating water within the Property.

#### **Reasons for the Decision**

14. As indicated, the Tenant submitted in her Application Form that the flat roof on the extension at the rear of the Property leaked when there was heavy rain. It was not raining at the time of the inspection but the Committee noted the condition of the roof and had no reason to doubt the Tenant's evidence. We had little hesitation in finding that the roof of the extension is not in a reasonable state of repair and not in proper working order.
15. The Committee noted that the external door of the extension fitted properly and was in a reasonable state of repair.
16. In the course of the inspection the Committee noted that the drain (at the external door of the extension at rear of the Property) was blocked with rainwater and requires to be unblocked
17. The Committee noted that there was an area of dampness in the external wall between the front door and the downstairs WC. This was confirmed by testing the area with a Protimeter. It appeared that this was because a window frame was in a poor state of repair (and not as a consequence of defective guttering).
18. The Committee also noted that there was an area of dampness in the internal wall of the upstairs bedroom. This too was confirmed by testing the area with a Protimeter. The Committee had little reason to doubt that when there was heavy rain there was water ingress in that wall. The Committee were unable to conduct an inspection of the roof but it appeared reasonably likely that this dampness could be caused by defective slates.

19. The Committee had little reason to doubt that the gas boiler was not functioning properly and was not in a reasonable state of repair.
20. In spite of requesting a copy of the Gas Safety Certificate, the Landlord had failed to provide one to the Tenant.

**Decision**

21. The Committee determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.
22. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) of the Act.
23. The decision of the Committee was unanimous.

**Right of Appeal**

24. A Landlord(s) or Tenant aggrieved by the decision of a PRHP 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. 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 ..... **R Handley** ..... Date 27 May 2011  
Chairperson