



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re 60, Main Street, Kirkcowan, Newton Stewart, DG8 0HG being the subjects registered in the Land Register of Scotland under Title Number WGN752 ('the Property')

The Parties:-

John Anderson residing at 60 Main Street, Kirkcowan, Newton Stewart, DG8 0HG ('The Tenant')

Gail MacVicar residing at 1 Millbrae, Bridge of Weir, Renfrewshire, PA11 3LD ('The Landlord')

NOTICE TO

The Landlord, the said Gail MacVicar residing at 1 Millbrae, Bridge of Weir, Renfrewshire, PA11 3LD

Whereas in terms of their decision dated 25th July 2012, 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 the Landlord has 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 was in a reasonable state of repair and proper working order and 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 Landlord 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 Landlord to:-

- (1) Repair the rear door of the Property to ensure that it is rendered wind and water tight.
- (2) Repair the hole in the roof of the tool shed and fill the gaps around the windows of the tool shed to ensure that it is rendered wind and water tight.
- (3) Reinstate the door of the potting shed.
- (4) Make safe the greenhouse by either removing or reinstating the glass to render it in a safe condition.
- (5) Repair or replace the glass of the sky lights in the en-suite shower room, boxroom and stairwell to eradicate condensation and render them in proper working order.
- (6) Repair the doors to the dining room and box room to ensure that they open and close properly.
- (7) Repair the defective seal behind the kitchen sink to ensure that the seal is watertight.
- (8) Make secure the loose floor boards in the two front bedrooms.
- (9) Either seal or repair the old kitchen cupboard next to the window in the kitchen to render the cupboard fit for purpose.

The Private Rented Housing Committee order that these works must be carried out and completed By 31st OCTOBER 2012.

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..... **J Taylor** Date 25th July 2012

Chairperson
.. E Shedden

... 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 60, Main Street, Kirkcowan, Newton Stewart, DG8 0HG being the subjects registered in the Land Register of Scotland under Title Number WGN752 ('the Property')

The Parties:-

John Anderson residing formerly at 60 Main Street, Kirkcowan, Newton Stewart, DG8 0HG ('The Tenant')

Gail MacVicar residing at 1 Millbrae, Bridge of Weir, Renfrewshire, PA11 3LD ('The Landlord')

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) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 14th April 2012 the Tenant 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 Act.
2. The application by the Tenant stated that he considered that the Landlord had failed to comply with their duty to ensure that the Property meets the repairing standard. He advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation; that the structure and exterior of the Property was not 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 not in a reasonable state of repair and proper working order; 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 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 that:-

- 2.1 The back door is not fit for purpose and it is not wind and water tight.
- 2.2 The outbuildings are dangerous and the roofs are falling in.
- 2.3 The green house is unattached, glass broken and set on loose bricks.
- 2.4 There is black mildew upstairs in the bedroom and bathroom.
- 2.5 The skylights have mildew damage and are fogged.
- 2.6 The gutters at the front and back of property are both full of debris and broken or loose.
- 2.7 The PVC Porch area is not to building code and is dangerous
- 2.8 Plaster throughout the house is degraded and visible
- 2.9 There are cracks in bedrooms and ceilings and there is a large hole in living room wall at plug socket.

- 2.10 The coal fireplace is not fit for purpose causing excessive smoke inhalation, also the flue is unsealed.
- 2.11 The back boiler does not heat hot water.
- 2.12 The electric water heater is not working properly.
- 2.13 Fixtures like doorknobs and doors are not working or missing. The bathroom door is missing as is the dining room door and bedroom door will not close at all
- 2.14 The electric fireplace not attached and glued to wall.
- 2.15 No proper ventilation for the tumble dryer provided.
- 2.16 The kitchen sink is unsealed and there is mildew and damp below the sink.
- 2.17 The upstairs floor boards are broken and loose.
- 2.18 The cupboard in the kitchen is not fit for purpose.
- 2.19 There is no upstairs fire alarm and there are no fire extinguishers.
- 2.20 There is no access to attic or garage due to the owner's personal possessions.

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.

- 3. As a preliminary matter the Private Rented Housing Committee served Notice of Direction requiring the Landlord to provide:
 - 3.1 An up to date report by a suitably qualified electrician on the working order and condition of the installation in the house for the supply of electricity. In addition, the report should address the state of repair and working order of any appliances provided by the landlord, the electric immersion heater and any smoke detectors.
 - 3.2 A report by a heating engineer or suitably qualified plumber on whether or not the solid fuel fire and back boiler are in a reasonable state of repair and in proper working order.
- 4. Thereafter 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 Tenant, dated 9th May 2012.
- 5. Following service of the Notice of Referral the Landlord provided a letter by William McShane, plumbing and heating engineer, dated 29th May 2012 confirming that he had fitted a flue liner and brewer cowl to the chimney which allows safe use of the stove; a receipt from The Firm of William McShane for the said works and a valid Electrical Periodic Inspection Report dated 31st May 2012.
- 6. The Committee attended at the Property on 19th July 2012. The Tenant had previously vacated the property. The Landlord and the new Tenant were present.

The property comprises a one and a half storey mid terraced cottage built around 1890 and located in the centre of the village of Kirkcowan about 7 miles south west of Newton Stewart in Dumfries and Galloway. It is constructed of whinstone and has a pitched slated roof with dormers to the front and velux style windows to the rear. The windows are double glazed and there is a central heating system served by a solid fuel stove. The property has a rear garden and various small outbuildings. The accommodation comprises a living room, dining room, kitchen, bathroom, small utility room/porch to the ground floor and two double bedrooms (one with en-suite shower room) and box room to the upper floor

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

- 6.1 The back door is not fit for purpose and it is not wind and water tight.
There was a gap between the lower section of the lock stile panel of the door and the door frame and daylight could be seen through the gap.
- 6.2 The outbuildings are dangerous and the roofs are falling in.
There were three co-joined out buildings:
The Tool Shed.

There was a hole in the roof of the tool shed and gaps around the windows.

The Wood Store

The door was missing from the wood store.

The Potting Shed.

The door was missing from the potting shed.

6.3 The green house is unattached, glass broken and set on loose bricks.

The door of the green house and some of the glass panels were missing.

6.4 There is black mildew upstairs in the bedroom and bathroom.

There were small spots of mildew in the en-suite shower room above the shower, which appeared to be condensation.

There were also a few spots of mildew at the camceil of the dormer window of the bedroom. The surveyor member of the committee tested the area with a damp meter but there was no evidence of dampness recorded.

6.5 The skylights have mildew damage and are fogged.

The seals to the double glazing in the skylights in the en-suite shower room, stairwell and box room are broken causing condensation between the panes and a 'fogged' appearance.

6.6 The gutters at the front and back of property are both full of debris and broken or loose.

The Committee inspected the gutters at the front and rear of the Property and determined that they were clear. The Landlord also confirmed a leaking gutter to the front had been repaired.

6.7 The PVC Porch area is not to building code and is dangerous.

At the rear of the Property there was a lean-to shelter with a PVC roof. The Landlord explained that additional tie downs had been fitted. The Committee confirmed that the structure was secure.

6.8 Plaster throughout the house is degraded and visible.

A number of the internal walls in the Property had a rough painted plaster finish.

6.9 There are cracks in bedrooms and ceilings and there is a large hole in living room wall at plug socket.

These items had been repaired.

6.10 The coal fireplace is not fit for purpose causing excessive smoke inhalation, also the flue is unsealed.

The Landlord advised that a flue liner had been fitted and the hole between the top of the solid fuel burner and the flue had been sealed. The new Tenant advised the Committee that the solid fuel burner worked well.

6.11 The back boiler does not heat hot water.

The New Tenant advised the Committee that the back boiler effectively heated the water.

6.12 The electric water heater is not working properly.

The Landlord turned on the water heater during the inspection and after a time hot water ran from the hot water tap in the bathroom.

6.13 Fixtures like doorknobs and doors are not working or missing. The bathroom door is missing as is the dining room door and bedroom door will not close at all.

There was no bathroom door between the bedroom and the ensuite bathroom but a curtain rail had been installed. The door knobs in the Property worked correctly. The door to the dining room and the box room only closed properly with force.

6.14 The electric fireplace not attached and glued to wall.

The electric fireplace had been attached to the wall.

6.15 No proper ventilation for the tumble dryer provided.

The Landlord had removed the tumble drier.

6.16 The kitchen sink is unsealed and there is mildew and damp below the sink.

There was a gap between the back of the kitchen sink and the surrounding worktop. Also the back of the cupboard below the sink was damp.

6.17 The upstairs floor boards are broken and loose.

Sections of the floor boards in the front bedrooms were loose.

6.18 The cupboard in the kitchen is not fit for purpose.

There was an old built in cupboard in the kitchen that had been sealed shut in the past. The seal had been broken and the door of the cupboard opened freely. The

back panel of the cupboard was distorted and twisted. The base of the cupboard was damp.

6.19 There is no upstairs fire alarm and there are no fire extinguishers.
Hardwired smoke alarms had been installed on the ceilings of the hall and landing of the Property. There was no fire extinguisher in the Property.

6.20 There is no access to attic or garage due to owners personal possessions.
The Landlord advised that the garage was not included in the Lease of the Property. She also advised that some of her possessions were stored in the attic.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Creebridge House Hotel, Minnigaff, Newton Stewart. The Landlord attended the hearing.

7.1 The Committee advised the Landlord that they were satisfied that the following matters complied with the Repairing Standard:

7.1.1 There is black mildew upstairs in the bedroom and bathroom.

They were satisfied that the mildew was mild and was probably due to condensation and did not result in the property not being watertight.

7.1.2 The gutters at the front and back of property are both full of debris and broken or loose.

The gutters had been cleaned and the Committee were satisfied that they were in a reasonable state of repair and proper working order.

7.1.3 The PVC Porch area is not to building code and is dangerous.

The Committee were satisfied that the porch area was secure and it was in a reasonable state of repair and proper working order, given the nature of the construction.

7.1.4 Plaster throughout the house is degraded and visible.

The Committee were satisfied that the plastered walls were in a reasonable state of repair and proper working order.

7.1.5 There are cracks in bedrooms and ceilings and there is a large hole in living room wall at plug socket.

The hole in the living room wall had been repaired. There were no other significant cracks in the walls and the ceilings of the bedrooms. The Committee were satisfied that they were in a reasonable state of repair.

7.1.6 The coal fireplace is not fit for purpose causing excessive smoke inhalation, also the flue is unsealed and the back boiler does not heat hot water.

The Committee were satisfied that the solid fuel stove, flue and back boiler had been repaired and were in proper working order.

7.1.7 The electric water heater is not working properly.

The Committee were satisfied that the electric water heater was in proper working order.

7.1.8 Fixtures like doorknobs are not working or missing. The bathroom door is missing.

The Committee were satisfied that the doorknobs in the Property worked properly. Also the absence of the door to the ensuite was not a breach of the repairing standard as a curtain rail had been provided by the Landlord.

7.1.9 The electric fireplace not attached and glued to wall.

The fireplace had been secured to the wall and was in proper working order.

7.1.10 No proper ventilation for the tumble dryer provided.

The tumble drier had been removed by the Landlord and was not included in the lease to the new Tenant.

7.1.11 There is no upstairs fire alarm and there are no fire extinguishers.

Hardwired smoke alarms had been installed in the Property as required by the regulations. There is no requirement in the Repairing Standard for a fire extinguisher to be provided.

- 7.2 The Committee also advised the Landlord that the fact that there is no access to attic or garage due to owner's personal possessions was not a part of the Repairing Standard and would not be considered further by the Committee.

In relation to the remaining matters the Landlord advised the Committee as follows:

- 7.2.1 The back door is not fit for purpose and it is not wind and water tight.
The Landlord advised that even although there is a gap between the back door and the door frame the rear porch provides protection from the weather.
- 7.2.2 The outbuildings are dangerous and the roofs are falling in.
The Landlord explained that the previous Tenant had removed the door from the potting shed. She explained that she would have a look at having the roof of the tool shed repaired.
- 7.2.3 The green house is unattached, glass broken and set on loose bricks.
The Landlord confirmed that she would be happy to repair the green house or remove the panes of glass to make the greenhouse safe.
- 7.2.4 The skylights have mildew damage and are fogged.
The Landlord accepted that the skylights are fogged but advised that they were in that condition when she resided in the Property.
- 7.2.5 The dining room door and bedroom door will not close at all.
The Landlord accepted that these doors need to be planed down to enable them to close properly.
- 7.2.6 The kitchen sink is unsealed and there is mildew and damp below the sink.
The Landlord accepted that the seal is broken.
- 7.2.7 The upstairs floor boards are broken and loose.
The Landlord accepted that there are loose floor boards in the two front bedrooms.
- 7.2.8 The cupboard in the kitchen is not fit for purpose.
The Landlord explained that she thought that the kitchen cupboard had been sealed so that it could not be opened or used. She advised the Committee that she would investigate the dampness in the cupboard and will probably reseal it.

Summary of the issues

8. Therefore the issues to be determined are:-

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).

Does the gap between the back door and the door frame, the condition of the outbuildings and the green house render these items not wind and watertight and in all other respects reasonably fit for human habitation.

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

Does the condition of the skylights, the dining room and bedroom doors and also the loose floor boards in the front bedrooms result in them not being in a reasonable state of repair and proper working order.

8.3 That the fixtures, fittings and appliances provided by the Landlords 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).

Does the condition of the defective seal at the back of the kitchen sink and the condition of the kitchen cupboard result in them not being in a reasonable state of repair and proper working order.

Findings of fact

9. The committee found that the following matters did not comply with the following sections of the Repairing Standard:

9.1 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 gap between the back door and the door frame, the defects to the outbuildings and the condition of the greenhouse identified at the inspection result in them NOT being wind and watertight and in all respects reasonably fit for habitation.

9.2 The structure and exterior of the Property was not in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

The defects to the dining room and boxroom doors; the loose floorboards in the front bedrooms and the fogged skylights identified at the inspection result in them NOT being in a reasonable state of repair and proper working order.

9.3 That the fixtures, fittings and appliances provided by the Landlords 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 defective seal at the back of the kitchen sink and the condition of the kitchen cupboard identified at the inspection result in them NOT being in a reasonable state of repair and proper working order.

Decision

10. The Committee accordingly determined that the Landlord had failed to comply with the duties imposed by Sections 13 (1)(a), 13(1)(b), 13(1)(d), and 14 of the Act, as stated.
11. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
12. The decision of the Committee was unanimous.

Right of Appeal

13. 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

14. 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 **J Taylor** Date 25th July 2012
Chairperson