



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re Watermill House, Glaisnock Road, Cumnock, KA18 4PJ being part of the subjects described in the disposition by Robert Mills in favour of Robert Brian Mills and Sandra Jane Mills recorded in the Division of the General Register of Sasines for the County of Ayr on 8th November 1990 ('the Property')

The Parties:-

Peter Wilson and Mrs Claire Wilson ('The Tenant')

Robert Mills residing at 49 Townhead Street, Cumnock, KA18 1LF ('The Landlord')

NOTICE TO ROBERT MILLS

Whereas in terms of their decision dated July 2011, 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 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 (including drains, gutters and external pipes) are 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 gap between the back door and the bottom of the door frame to render it wind and water tight.
- (2) Make secure the breakfast bar and repair the two broken /missing handles.
- (3) Repair the seals around the bath and en-suite shower.
- (4) Repair the defective pointing.

The Private Rented Housing Committee order that these works must be carried out and completed By 12th AUGUST 2011.

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 6th July 2011
Chairperson
E G 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 Watermill House, Glaisnock Road, Cumnock, KA18 4PJ being part of the subjects described in the Disposition by Robert Mills in favour of Robert Brian Mills and Sandra Jane Mills recorded in the Division of the General Register of Sasines for the County of Ayr on 8th November 1990 ("the Property")

The Parties:-

Peter Wilson and Mrs Claire Wilson ('The Tenants')

Robert Mills residing at 49 Townhead Street, Cumnock, KA18 1LF ('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 9th May 2011 the Tenants 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 Act.
2. The application by Peter Wilson, one of the tenants, stated that he considered that the Landlord has failed to comply with his 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 and 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.

In particular the application stated that:-

- 2.1 The back door lets in water when there is heavy rain.
- 2.2 The windows are not sealed as draughts blow through.
- 2.3 The porch has no radiator. The radiator has been sat in the porch since they moved in and needs to be fitted.
- 2.4 The kitchen is falling apart and needs to be fixed.
- 2.5 They had to replace carpets that were not fit for purpose.
- 2.6 Blinds were not fit for purpose and were dangerous.
- 2.7 Windows and Doors need to be replaced.
- 2.8 The patio needs to be re-laid.
- 2.9 The bath needs to be re-sealed.
- 2.10 The en-suite shower needs to be sealed.
- 2.11 The pointing needs to be repaired.
- 2.12 The insulation needs to be addressed.
- 2.13 The chimney needs to be swept.
- 2.14 The fire surround needs to be repointed.

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.
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 Landlord and the Tenants, dated 16th May 2011.
5. Following service of the Notice of referral:-
 - (a) The Landlord submitted the following documents:-
 - a. Estimate from Philip Kelso & Son, Building Contractors for repairing the patio, pointing, slabs and steps.
 - b. Report by David Bell, Joiner and Building Contractor listing the items in the Property that are in need of repair.
 - (b) The Tenants submitted a copy of the letter they sent to the Landlord dated 10th March 2011.
6. The Committee attended at the Property on 4th July 2011. The landlord and the Tenants were present. The Committee inspected the alleged defects and found as follows:-
 - 2.1 The back door lets in water when there is heavy rain.
There was a gap between the back door and the bottom of the door frame.
 - 2.2 The windows are not sealed as draughts blow through.
The windows were double glazed with wooden frames. It was reasonably windy at the time of the inspection and the Committee did not detect any draughts.
 - 2.3 The porch has no radiator. The radiator has been sat in the porch since they moved in and needs to be fitted.
As the radiator had not been installed at the commencement of the tenancy this was not a breach of the repairing standard.
 - 2.4 The kitchen is falling apart and needs to be fixed.
The worktop of the breakfast bar was loose and two kitchen unit door handles were broken or missing.
 - 2.5 They had to replace carpets that were not fit for purpose.
As the Tenants had replaced the carpets this was not a breach of the repairing standard.
 - 2.6 Blinds were not fit for purpose and were dangerous.
As the Tenants had replaced the blinds this was not a breach of the repairing standard.
 - 2.7 Windows and Doors need to be replaced.
A number of double glazed window panes had recently been replaced and the windows are now in good order. The doors were not defective.
 - 2.8 The patio needs to be re-laid.
The Tenants confirmed that the patio had been re-laid recently.
 - 2.9 The bath needs to be re-sealed.
The seal around the bath was broken.
 - 2.10 The ensuite shower needs to be sealed.
The Tenants had made a temporary repair to the seal of the en-suite shower.
 - 2.11 The pointing needs to be repaired.
An area of pointing on the end wall of the property was in need of repair.
 - 2.12 The insulation needs to be addressed.
The Tenants advised that they had applied for a grant for cavity wall insulation but the application had not been accepted.
 - 2.13 The chimney needs to be swept.
The Tenants advised that the chimney had been swept.
 - 2.14 The fire surround needs to be repointed.
The pointing around the fireplace was cracked.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Royal Hotel, Cumnock.

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

- 7.1 The back door lets in water when there is heavy rain.
The Tenants explained that the gap between the back door and the door frame speaks for itself. When it is raining the wind blows the rain through the gap into the Property.
- 7.2 The windows are not sealed as draughts blow through.
The Landlord explained that had replaced seven windows recently and gavethe Committee the receipt. He advised that he had also over hauled the other windows of the Property and checked that they closed tight. He had found that one or two of the side catches were loose and he tightened them.
The Tenants explained that even although the windows had been replaced they were still draughty, particularly the bedroom and lounge windows.
- 7.3 The porch has no radiator. The radiator has been sat in the porch since they moved in and needs to be fitted.
The Tenants explained that the Landlord had advised that the radiator would be fitted but this had not been done.
- 7.4 The kitchen is falling apart and needs to be fixed.
The Tenants explained that the worktop of the breakfast bar was loose and two handles were broken.
The Landlord agreed to have these items repaired.
- 7.5 The Tenants had to replace carpets that were not fit for purpose.
The Tenants advised that they had replaced the carpets in question.
- 7.6 Blinds were not fit for purpose and were dangerous.
The Tenants advised that they had replaced the blinds in question.
- 7.7 Windows and Doors need to be replaced.
The parties confirmed that this had been attended to.
- 7.8 The patio needs to be re-laid.
The parties confirmed that this had been attended to.
- 7.9 The bath needs to be re-sealed.
The Landlord explained that the seal was installed when the tiling was being completed and was not defective.
The Tenants did not think that this was correct and explained that the seal around the bath was a silica seal and a section was missing.
- 7.10 The ensuite shower needs to be sealed.
The Tenants explained that they had carried out a temporary repair but a permanent repair was required. The Tenants also explained that the shower pressure was intermittent and the shower was in need of repair.
- 7.11 The pointing needs to be repaired.
The Tenants and Landlord advised that there was a section of pointing to the rear external wall of the Property that was in need of repair.
- 7.12 The insulation needs to be addressed.
The Tenants advised that they had applied for a grant to install cavity wall insulation but the grant application had been refused as some of the sub floor ventilators were blocked. The Landlord explained that the sub floor insulation had been upgraded and he did not understand why the Tenants' application had not been accepted.
- 7.13 The chimney needs to be swept.
The parties confirmed that this had been attended to.
- 7.14 The fire surround needs to be repointed.
The parties acknowledged that some of the pointing of the fire surround was cracked.

- 7.15 The parties also discussed the difficulties relating to the intermittent water pressure in the ensuite shower. However the Committee noted that this matter had not been included in the Tenant's application.

Summary of the issues

8. As stated above, the Tenants confirmed that the patio had been satisfactorily repaired and the chimney had been swept.

Also the Committee cannot make a determination in relation to the following matters:-

- (1) The intermittent water pressure in the en-suite shower as this had not been included in the Tenant's application;
- (2) The condition of the carpets and the blinds as the Tenants had replaced them before submitting the application and
- (3) The fact that the radiator in the porch had not been installed as it had not been installed at the commencement of the Tenancy.
- (4) The fact that the Tenants' grant application to install cavity wall insulation was refused. This was not part of the Repairing Standard.

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).

Whether the condition of the back door and the windows result in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

- 8.2 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).

Whether the worktop and door handles in the kitchen; the doors and windows; the seals to the bath and en-suite shower and the pointing of the fire surround are in a reasonable state of repair and in proper working.

- 8.3 The structure and exterior of the Property (including the drains, gutters and external pipes) are in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

Whether the pointing was in a reasonable state of repair and proper working order. The Committee acknowledged that the Tenants had not specified this section of the Repairing Standard in the application. However as the Tenants had stated in their application that the pointing was in need of repair the Committee agreed that they are able to include this matter in their determination.

Findings of fact

The Committee found:-

- 9.1 The patio had been satisfactorily repaired and the chimney had been swept, as confirmed by the Tenant.
- 9.2 As explained, the unconnected radiator in the porch, the condition of the carpets and blinds (which had been replaced by the Tenants) and the fact the Tenants' grant application for cavity wall insulation had been refused were matters out with the Repairing Standard.
- 9.3 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).

- 9.3.1 The gap between the back door and the door frame does result in the Property not being wind and water tight.
- 9.3.2 The windows of the Property were wind and watertight and they comply with the Repairing Standard.

9.4 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).

- 9.4.1 The loose breakfast bar worktop and the two broken/ missing handles of the kitchen units in the kitchen and not in a reasonable state of repair and in proper working order.
- 9.4.2 The windows and doors in the property, apart from the back door mentioned above, are in a reasonable state of repair and proper working order.
- 9.4.3 The seals to the bath and the en-suite are not in a reasonable state of repair and in proper working order.
- 9.4.4 The cracked pointing to the fire surround was not sufficient to render it in an unreasonable state of repair.

9.5 The structure and exterior of the Property (including the drains, gutters and external pipes) are in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

- 9.5.1 The pointing to the external wall was not 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) and 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 6th July 2011
Chairperson 