



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

prhp Ref: PRHP/RP/13/0134

Re : Property at 105 Cocklaw Street, Kelty, Fife, KY4 0DG ("the Property")

Land Register Title No: FFE1756

The Parties:-

Jacqueline Thomson Kemp, formerly of Balmule Farm, Dunfermline and now at Kinsbarn Equestrian Centre, Westershieldhill, Falkirk, FK1 38T ("the Landlord")

Mr Peter Miller and Mrs Linda Miller, 105 Cocklaw Street, Kelty, Fife, KY4 0DG ("the Tenants")

Decision

The Committee, having noted that the Landlord has failed to produce an up to date gas safety certificate and investigate and repair/replace, if necessary, the boiler ignition, has failed to carry out sufficient repair to the roof covering to ensure that it is wind and water tight, has failed to ensure that the gutters and downpipes are in a reasonable state of repair and in proper working order and has failed to ensure that there is satisfactory provision within the property for detecting fires and for giving warning in the event of a fire or suspected fire in terms of the Repairing Standard Enforcement Order issued by the Committee on 9 April 2014; Find that the Landlord has failed to fully comply with the said Repairing Standard Enforcement Order within the period of 28 days from the date of service of the notice being, 17 April 2014; Resolve to serve notice of the failure on the Local Authority.

Background

- 1. On 9 April 2014, the Private Rented Housing Committee having determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") issued an Order requiring the Landlord to:**

1. Produce an up to date gas safety certificate and investigate and repair/replace, if necessary, the boiler ignition to ensure that it is in a reasonable state of repair and in proper working order;
 2. Repair/replace the roof covering, gutters and downpipes to ensure that the house is wind and water tight and in all other respects reasonably fit for human habitation and that the structure and exterior of the house are in a reasonable state of repair and in proper working order;
 3. Repair/replace the front door of the property to ensure that the house is wind and water tight;
 4. Repair/replace flooring in the hall to ensure that it is in a reasonable state of repair;
 5. Ensure that there is satisfactory provision within the property for detecting fires and for giving warning in the event of a fire or suspected fire.
2. The property was re-inspected by the surveyor member of the Committee on 5 September 2014. The Tenants were not present as they have vacated the property. Two representatives were present on behalf of the Landlord, Malcolm MacDonald and Abigail Lievesley. It was noted that the Landlord had complied with items 3 and 4 of the Repairing Standard Enforcement Order. In connection with item 1, no up to date gas safety certificate has been produced. A plumber was in attendance during the reinspection examining the central heating boiler to ascertain whether it could be repaired but no work had been carried out at the time of the reinspection.
 3. In connection with item 2 of the Repairing Standard Enforcement Order, the Landlord had carried out some work to the roof and water goods. The felt roof covering the rear pitch above the outrigger has been replaced and so has the guttering on the rear elevation. The surveyor member however had concerns about the work carried out. The felt has not been properly lapped and there is already evidence that water ingress is occurring to the kitchen ceiling. There was brown damp staining apparent on the ceiling. The surveyor member accordingly did not consider that the work carried was sufficient to make the property watertight. It was also clear from the inspection that the downpipe to the rear elevation did not meet the guttering. There was an opening in the guttering where the downpipe should be joined. There is accordingly nothing to stop water gushing from the guttering when it rains. The surveyor member accordingly did not consider that the gutters were in a reasonable state of repair and in proper working order.
 4. In connection with item 5 of the Repairing Standard Enforcement Order, it was clear on reinspection that no work had been carried out to

the smoke alarm system in the property. The remains one old style smoke alarm in the internal hall of the property that is not hardwired. The Landlord's representative indicated that the matter would be dealt with in the next week.

5. The reinspection report was served on the Landlord No submissions were received from the Landlord but the Landlord phoned on 10 October 2014 stating that she had a gas safety certificate and would email it over. Nothing however has been received. The Landlord also indicated that she had sent in submissions but nothing has been received.
6. In the circumstances, the Committee, having made such enquiries as it thought fit for the purposes of determining whether the Landlord had complied with the Repairing Standard Enforcement Order, find in terms of Section 26(1) of the Act that the Landlord has failed to fully comply with items 1, 2 and 5 of the Repairing Standard Enforcement Order without reasonable excuse and resolve to serve notice of failure on the Local Authority.
7. As the Tenant has left the property, it is not appropriate to make any Rent Relief Order.

Decision

8. The Committee resolved to serve notice of the Landlord's failure to comply with the Repairing Standard Enforcement Order on the Local Authority.
9. The decision of the Committee is unanimous.

Right of Appeal

10. **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

11. 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.

Judith Lea

Signed

..... Date 24 October 2014