



A Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/13/0085

Re : Property at 6 Hill Street, Cowdenbeath, KY4 9AY ("the Property")

Land Register Title Number: FFE30161

The Parties:-

Miss Claire Devlin, 6 Hill Street, Cowdenbeath, KY4 9AY ("the Tenant")

Mr Keith Burdett, 41 Tulloch Court, Cowdenbeath, KY4 9ST ("the Landlord")

NOTICE TO
Mr Keith Burdett, 41 Tulloch Court, Cowdenbeath

Whereas in terms of their decision dated 26 August 2014, The Private Rented Housing Committee having determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") and in particular that the Landlord has failed to ensure that:- the property is 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 in 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 in proper working order and that any fixtures and fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.

The Private Rented Housing Committee requires the Landlord to carry out such work as necessary for the purposes of ensuring that the property concerned 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/Replace the faulty mechanism in the toilet cistern in the downstairs toilet to ensure it is in proper working order.
2. Repair/Replace the kitchen worktops and base units to ensure they are in a reasonable state of repair and to prevent ongoing water damage.
3. Repair/Replace the shower tray and screen in the shower room to make them water tight and replace the damaged tiles in the shower.
4. Clear the gutters/rhones of vegetation and debris to ensure that rain water is freely draining.

5. Repair/Replace, if necessary, the light outside the front door and the extractor fan in the upstairs bathroom.
6. Repair/Replace the doors on the four upstairs room and install a door to the dining room to ensure that all doors are in a reasonable state of repair.
7. Remove rubbish and other items not belonging to the Tenant from the garden and repair the fence to ensure the garden is safe and reasonably fit for human use.

The Private Rented Housing Committee orders that the work should be carried out within a period of six weeks from the date of service of this notice.

A landlord or a tenant aggrieved by this 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 variation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the variation 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 Judith V Lea, solicitor, Unit 3.5 The Granary Business Centre, Coal Road, Cupar, Fife, KY15 5YQ, chairperson of the Private Rented Housing Committee at Cupar on *16 August* 2014 before this witness:-

R Graham

..... Witness

J Lea

..... Chairman

Rachel Graham
Unit 3.5, The Granary Business Centre
Coal Road
Cupar
Fife



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

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Re : Property at 6 Hill Street, Cowdenbeath, KY4 9AY ("the Property")

Land Register Title Number: FFE30161

The Parties:-

Miss Claire Devlin, 6 Hill Street, Cowdenbeath, KY4 9AY ("the Tenant")

Mr Keith Burdett, 41 Tulloch Court, Cowdenbeath, KY4 9ST ("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) in relation to the property concerned, and taking account of the evidence lodged by both the Landlord and the Tenant, and having inspected the property, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 26 August 2013 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 Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the property meets the repairing standard and in particular that the Landlord had 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 in 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 in proper working order and that any fixtures and fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
3. The President of the Private Rented Housing Panel intimated a decision to refer 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 Tenant.
5. The Private Rented Housing Committee (comprising Ms Judith Lea, Chairman and Legal Member, Christine Anderson, Housing Member and Donald Marshall, Surveyor Member) inspected the Property on 19 August 2014. Brenda Higgins, a new Housing Member of the Private Rented Housing Committee was also in attendance as part of her training. The Tenant was present but the Landlord was not present or represented at the inspection.

6. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Crossgates Community Centre, Crossgates, Cowdenbeath. Neither the Landlord nor the Tenant attended the hearing.
7. With the Tenant's application a letter from Enterprise and Protective Services of Fife Council dated 3 July 2013 was lodged together with a copy of the Tenant's letter to the Landlord dated 28 May 2013. These letters together with the application form set out the issues complained about by the Tenant.
8. The Committee considered each of these issues in turn:-
9. Vermin Infestation, Ant Problem, Leaking Kitchen Tap and Bedroom Radiator
The Tenant confirmed at the inspection that the problem with the rats had been sorted out and provided the Committee with a treatment and inspection report from Reaper Pest Control dated 19 August 2013. The Tenant confirmed that there was no ongoing problem with the rats. The Tenant also confirmed at the inspection that there was no ongoing problem with ants. The Tenant also confirmed at the inspection that the tap in the kitchen had been fixed. It was clear from inspection that although the tap was still slightly loose, there was no ongoing leak. The Tenant also confirmed that the radiator in the bedroom had been fixed. The Committee accordingly did not consider it necessary to make an order in respect of any of these matters.
10. Downstairs Toilet
It was clear from inspection that the toilet cistern in the downstairs toilet has a faulty filling mechanism. When the cistern is filling, a spray comes out and this causes a drip to form on the cistern lid which goes down the sides of the cistern and is causing mould at the base of the toilet. The Committee considered this to be a breach of Section 13(1)(c) of the Repairing Standard and resolved to make an order requiring the Landlord to repair/replace the faulty mechanism.
11. Kitchen Worktop and Base Units
It was clear from inspection that there was a gap at the back of the sink which was causing an ongoing damp problem with the kitchen worktop around the sink and also the cupboards near to the sink at ground floor level. The Tenant advised at the inspection that this had been a problem since she had moved in and that the Landlord had promised to rectify it but had not done so. The Committee consider this to a breach of Section 13(1)(d) of the Act and proceeded to make an order. Given the state of the kitchen worktop and base units, it may be difficult to carry out a repair which will be sufficient to rectify the problem.
12. Shower Room
It was clear from inspection that there were cracked tiles in the shower base unit and a lack of seal at the bottom of the shower door. This is causing water to leak into the shower room and the Committee considered this to be a breach of Section 13(1)(d) of the Act and proceeded to make an order. If this is not rectified there could be further damage to the shower room floor.
13. Living Room Window
It was clear from inspection that there is a small gap on the right hand side of this window. The window however appeared to open and close satisfactorily and there was no evidence that the window is not wind and water tight. The area around the window was dry. The Committee accordingly did not consider this to be a breach of the Repairing Standard.
14. Gas Safety Certificate
The Tenant was able to produce a gas safety certificate dated 20 February 2014 which the Committee found satisfactory in its terms. It was accordingly not necessary for any order to be made.

15. Gutters

It was clear from inspection that there was vegetation growing out of the gutters and that they required to be cleaned. In the Surveyor's view the blockage of the gutters may be contributing to the new issue recently raised by the Tenant in connection with damp in the downstairs bedroom. (This matter is not part of the current application.) The Committee considered that the state of the gutters is a breach of Section 13(1)(b) of the Act in that the gutters are blocked and are not in proper working order. The Committee accordingly proceeded to make an order.

16. Outside Light and Fan in the Shower Room

There was no electricity at the time of the inspection so it was not possible for the Committee to check whether the outside light and the fan in the shower room were broken as claimed by the Tenant. However no submissions were made by the Landlord to the effect that these two items are in proper working order. If they are not, this would clearly be a breach of Section 13(1)(c) of the Act and the Committee accordingly made an order for the Landlord to rectify these matters if necessary.

17. Four Upstairs Doors and Dining Room Door

It was clear from inspection that the doors of the four rooms upstairs had numerous holes in them and are not in a reasonable state of repair. The dining room door was missing altogether. The Committee considered this a breach of Section 13(1)(d) of the Act and proceeded to make an order.

18. Garden

At the inspection the Tenant pointed out a lot of rubbish, rubble and equipment in the garden which does not belong to the Tenant. The Tenant also had safety concerns with regard to the nails sticking out of the fence which is in a state of disrepair. The Committee considered that the state of the garden was a breach of Section 13(1)(a) of the Act. The Tenant has children who would be unable to play safely in the garden in its current state. There is a garden shed which is in a state of disrepair and which is full of items not belonging to the Tenant. The Committee accordingly proceeded to make an order. The Committee also were concerned to note that the paths and steps in the garden are in an unsafe condition. This however was not a matter specifically raised by the Tenant in her application. The Committee would suggest that this issue is looked at by the Landlord.

Decision

19. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
20. The Committee proceeded to make a Repairing Standard Enforcement Order in respect of numerous issues as required by section 24(1).
21. The decision of the Committee was unanimous.
22. The Committee considered it reasonable to allow the Landlord a period of six weeks to complete the work. None of the work is of a particularly major nature and the matters have been outstanding for some time.

Right of Appeal

23. 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

24. 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 Lea** Date **20/8/14**
Chairperson