



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re Float Farm House, Sandhead, Stranraer, DG9 9LF ('the Property')

The Parties:-

Brian Milligan residing at Float Farm House, Sandhead, Stranraer, DG9 9LF ('The Tenant')

Gordon Morland residing at Airieland, Stoneykirk Road, Stranraer, DG9 7BT ('The Landlord')

NOTICE TO Gordon Morland

Whereas in terms of their decision dated 12th March 2014, 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 and that the structure and exterior of the property 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 or replace all the wooden windows (except the velux windows) to render them wind and watertight.
2. Repair or replace the front and back doors to render them wind and watertight.
3. Repair and clean (or replace if necessary) all gutters to render them in proper working order.
4. Repair or replace all the timber eaves on the two front dormers to render them wind and watertight.

The Private Rented Housing Committee order that these works must be carried out and completed By 31st May 2014.

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 12th March 2014
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 Float Farm House, Sandhead, Stranraer, DG9 9LF ('the Property')

The Parties:-

Brian Milligan residing at Float Farm House, Sandhead, Stranraer, DG9 9LF ('The Tenant')

Gordon Morland residing at Airieland, Stoneykirk Road, Stranraer, DG9 7BT ('The Landlord')

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the Property, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 24th September 2013 the Tenant 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 Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant 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 is not wind and watertight and in all respects reasonably fit for human habitation and the structure and exterior of the Property was not in a reasonable state of repair and proper working order.

In particular the application stated that:-

2.1 There are several windows and doors at the Property that let in wind and rain. In particular the windows need replacing and the front door needs to be replaced.

2.2 The guttering and roof needs to be repaired.

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 Committee members were Jacqui Taylor (Chairperson), George Campbell (Surveyor Member) and Jim Riach (Housing Member).
5. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the parties dated 13th December 2013.
6. The Committee attended at the Property on 11th March 2014. The Tenant was present along with Claire Kerslake and Paul Davis of the Citizens Advice Bureau. They

represented the Tenant. The Landlord was not present and was not represented. The Committee inspected the alleged defects and found as follows:-

6.1 There are several windows and doors at the Property that let in wind and rain. In particular the windows need replacing and the front door needs to be replaced.

The metal casement windows in the hall and box room were wind and watertight. The wooden windows throughout the property (with the exception of the velux window) were rotten and in a very poor condition. In particular day light could be seen through some of the window frames in the bathroom and the lounge. Also many of the window panes were loose. The front and back doors were not wind and water tight as the seals were defective.

6.2 The guttering and roof needs to be repaired.

There were no obvious defects to the tiled roof. However the wooden verges of the front dormer windows were rotten and in a very poor condition. Sections of the guttering were loose. In particular the section of guttering above the rear lounge window sloped in the direction of the back door. Also there was vegetation growing in most of the gutters.

The Committee also noted that there is a hardwired smoke alarm in the Property which they tested and confirmed that it is in proper working order.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at North West castle Hotel, Stranraer.

The Tenant's representatives, Claire Kerslake and Paul Davis, attended the hearing. The Landlords did not attend and were not represented.

Claire Kerslake and Paul Davis advised as follows:

7.1 There are several windows and doors at the Property that let in wind and rain. In particular the windows need replacing and the front door needs to be replaced.

The wooden windows in the bathroom, kitchen, lounge, dining room and bedrooms were rotten and in a very poor condition resulting in them not being wind and water tight. The front and back doors let in wind and water. They have seen water gather on the inside of the doors.

7.2 The guttering and roof needs to be repaired.

Sections of the guttering are loose, in particular the section above the rear lounge window. Also the gutters need to be cleared. The wooden sides of the front dormers are rotten and in a very poor condition. They also explained that whilst the condition of the roof is not perfect it is not a significant problem.

8. Summary of the issues

Sections 13(1)(a) and (b) of The Housing (Scotland) Act 2006 provide that the Property must be wind and watertight and in all respects reasonably fit for human habitation and the structure and exterior of the Property must in a reasonable state of repair and proper working order.

The Committee accepted that the issues to be determined are whether the condition of the windows and doors result in the Property not being wind and watertight and in all respects reasonably fit for human habitation and whether the condition of the roof, including the dormers, and the condition of the guttering results in the structure and exterior of the Property not being in a reasonable state of repair and proper working order.

9. Findings of fact

The Committee found:-

9.1 The poor condition of the wooden windows throughout the property and the fact that the front and back doors of the property were draughty and the seals were defective results in the Property not being wind and watertight and in all respects reasonably fit for human habitation.

9.2 The poor condition of the gutters and the timber eaves verges on the two front dormers result in the structure and exterior of the Property not being in a reasonable state of repair and proper working order.

10. Decision

The Committee accordingly determined that the Landlords have failed to comply with the duties imposed by Sections 14 (1)(a) and 14(1)(b), of the Act, as stated.

The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

11. The decision of the Committee was unanimous.

Right of Appeal

12. 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

13. 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.

J Taylor

Signed Date 12th March 2014
Chairperson