



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re 46 Townend Street, Dalry, KA24 4AD being the subjects registered in the Land Register of Scotland under title number AYR3661 ('the Property')

The Parties:-

Eric Moran residing at 46 Townend Street, Dalry, KA24 4AD ('The Tenant')

Land AK Limited of 1313 Argyle Street, Glasgow, G3 8TL ('The Landlords')

NOTICE TO Land AK Limited

Whereas in terms of their decision dated 20th December 2013, 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 Landlords have 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 Landlords 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 Landlords to:

1. Repair, replace or remove the chimney stack to render the roof wind and watertight.
2. Eradicate the dampness in the lounge and kitchen and carry out necessary remedial work to internal wall and ceilings finishes and all necessary associated redecoration.

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

J Taylor

Signed..... Date 20th December 2013

Chairperson. / / /
..... Witness: KEIRSTEN BYRNE, 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 46 Townend Street, Dalry, KA24 4AD being the subjects registered in the Land Register of Scotland under title number AYR3661 ('the Property')

The Parties:-

Eric Moran residing at 46 Townend Street, Dalry, KA24 4AD ('The Tenant')

Land AK Limited 1313 Argyle Street, Glasgow, G3 8TL ('The Landlords')

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 15th October 2013 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords have 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 Landlords have 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; 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; the furnishings provided by the Landlords 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 property is not wind and watertight and the roof needs to be repaired.
- 2.2 There is no banister on the stairway and this is required for safety reasons.
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. The Committee members were Jacqui Taylor (Chairperson), George Campbell (Surveyor Member) and Jim Riach (Housing Member).
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 Landlords agents, Happy Lets Ltd, and the Tenant, dated 30th October 2013.
5. The Committee attended at the Property on 18th December 2013. The Tenant was present. The Landlords were not present and were not represented. The Committee inspected the alleged defects and found as follows:-

5.1 The Property is not wind and watertight.

The Committee saw evidence of dampness in the internal wall between the lounge and kitchen. The Committee noted that the dampness was located in the area below the chimney. The Surveyor member of the Committee used a damp meter to test for dampness in the wall between the lounge and the kitchen. The readings in the lounge were between 19 and 32 and the readings in the kitchen were between 14 and 30, confirming the presence of significant dampness.

The Committee examined the roof and chimney stack from the front garden and the footpath in front of the Property. They found that generally the roof appears to be in a poor condition. There are irregular slates and as the slates tightly abut both sides of the chimney stack there appeared to be no evidence of any lead flashing at the base of the chimney stack. However it was apparent that recent cement repairs had been carried out to the top of the chimney stack.

5.2 There is no banister on the stairway.

A banister had recently been installed.

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.

6. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Romeo and Juliet Inn, Kilbirnie Road, Dalry, KA24 5JS.

The Tenant attended the hearing. The Landlords did not attend and were not represented. The Tenant advised that he was satisfied with the installation of the banister and he was only concerned about the dampness in the lounge and condition caused by the condition of the chimney stack and the roof.

The Tenant explained that he had lived in the Property for approximately two and a half years. He first became aware of a damp problem in September/ October 2011 when a damp mark appeared in the lounge. He explained that since that time the Landlords have sent tradesmen to carry out repairs to the roof on four occasions but the repairs have not been successful.

7. 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 dampness found in the wall between the lounge and the kitchen and the condition of the roof and chimney stack result in the Property not being wind and watertight and in all respects reasonably fit for human habitation and the structure and exterior of the Property not being in a reasonable state of repair and proper working order.

8. Findings of fact

The Committee found that the dampness in the wall between the lounge and kitchen results in the Property not being wind and watertight and in all respects reasonably fit for human habitation. Also the poor condition of the chimney stack and the roof described result in the structure and exterior of the Property not being in a reasonable state of repair and proper working order.

9. 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.

10. 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.

Signed
Chairperson

..... Date 20th December 2013