



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re 2 Corlae Byre, Water O Ken, Castle Douglas, DG7 3UF being the subjects registered in the Land Register of Scotland under title number KRK2721 ('the Property')

The Parties:-

Ms Margaret Taylor residing at 2 Corlae Byre, Water O Ken, Castle Douglas, DG7 3UF (The Tenant')

Mr James Hoyles, Holmhead Farm, Moniaive, Dumfriesshire, DG3 4ER ('The Landlord')

NOTICE TO James Hoyles

Whereas in terms of their decision dated 20th February 2014, 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 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, fittings and appliances supplied by the landlord under the tenancy are in a reasonable state of repair and in 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. Restore an adequate water supply to the Property.
2. Obtain a report from a suitably qualified person confirming that the AGA has been properly installed and is safe.
3. Ensure that the showers in the Property are in good working order.
4. Ensure that handles are installed to all internal doors.

The Private Rented Housing Committee order that these works must be carried out and completed within twenty eight days of date of service.

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..... **M McAllister**
Chairperson /

... Date 3rd March 2014 /

A Green /

.....witness: Alistair Neil Green, 51 Hamilton Street, Saltcoats



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 2 Corlae Byre, Water O Ken, Castle Douglas, DG7 3UF being the subjects registered in the Land Register of Scotland under title number KRK2721 ('the Property')

The Parties:-

Ms Margaret Taylor residing at 2 Corlae Byre, Water O Ken, Castle Douglas, DG7 3UF (The Tenant')

Mr James Hoyles, Holmhead Farm, Moniaive, Dumfriesshire, DG3 4ER ('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 Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 24th 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 she considered that the Landlord has failed to comply with his duty to ensure that the Property meets the repairing standard. She contended that the Property is not wind and watertight and in all respects reasonably fit for human habitation; 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 and the fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order.

In particular the application stated that:-

- 2.1 The water supply to the Property is full of germs requiring the Tenant to use bottled water.
- 2.2 The water supply is not functioning properly and there is no supply to the taps of the Property.
- 2.3 The AGA cooker works but does not have fire retardant material behind it.
- 2.4 The showers are not working.
- 2.5 Aga and tiles require to be completed.
- 2.6 Handles require to be fitted to doors.
- 2.7 A ditch at the rear of the property requires to be filled.
- 2.8 The step at the front of the Property is too high to allow access and egress.

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 Martin McAllister (Chairperson), George Campbell (Surveyor Member) and Jim Riach (Housing Member).
4. The Private Rented Housing Committee served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant, dated 28th November 2013.
5. A Notice of Direction in terms of Schedule 2 Paragraphs (2) (1) and 3 (1) (b) of the Housing (Scotland) Act 2006 and Regulation 14 of the Private Rented Housing Panel (Applications and determinations) (Scotland) Regulations 2007 was issued on 4th February 2014 requiring the Landlord to provide any reports relating to the water supply of the Property and also any reports, letters, notices and certificates issued to the Landlord by Dumfries and Galloway Council in relation thereto. In response to the Direction, the Landlord provided a copy of a letter from Dumfries and Galloway Council dated 8th January 2014.
6. The Committee attended at the Property on 19th February 2014. The Tenant and Landlord were present. The Committee inspected the alleged defects and found as follows:-

6.1 The Property is not wind and watertight and in all respects reasonably fit for human habitation.

The Committee saw no evidence of the Property not being wind and watertight and, other than matters dealt with later in this determination, did not see evidence of the Property not being fit for human habitation.

The Committee noted that there was a shallow ditch at the boundary between the Property and a neighbouring property owned by the Landlord.

The Committee noted that there was a concrete step at the front of the Property which afforded access to the garden.

6.2 The installations in the house 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 in proper working order.

The Committee saw that there was not a working water supply to the Property.

6.3 The fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order.

The Committee could not test the shower in the bathroom because there was no water supply.

The Committee noted that there were panels of grey material fixed to the wall behind the AGA.

The Committee noted that some internal doors in the Property did not have handles.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The CatStrand, High Street, New Galloway, Castle Douglas, DG7 3RN

The Tenant and the landlord attended the hearing. The Tenant was accompanied by her son George Taylor and the landlord was accompanied by his friend Andrew Wilson.

The Tenant explained that when she made the application to the private Rented Housing Panel she had concerns about the quality of the water and an officer of the Environmental Standards Department of Dumfries and Galloway Council had advised her not to drink it. The Landlord explained that he had carried out works to determine the source of issues with the water quality and had installed an ultra violet filter system in the Property as advised by the

Council. The Tenant accepted that there is now no issue with the quality of the water. The Committee had before it a letter from Dumfries and Galloway Council dated 8th January 2014 which stated that the water quality was satisfactory when tested with the ultra violet filter operational.

The Tenant said that she had no reliable supply of water and it was not restored until December 2013. She said that the water supply had failed on 18th February, the day prior to the Hearing. The Landlord said that the water supply came from a well some distance from the Property and that it had failed because someone had put bricks in the well and had used expanding foam to stop the water flow. The Landlord blamed the Tenant for this action. The Tenant neither confirmed nor denied that she was responsible.

The Tenant said that the shower did not work properly because of insufficient pressure and that, when it was operational, it did not heat the water sufficiently to allow a user to shower comfortably. The Landlord said that the shower was working.

The Tenant accepted that, subsequent to her application, the Landlord had installed panels behind the AGA. The Landlord said that these are constructed from fireboard.

The Tenant said that there were handles missing from some internal doors of the Property. The Landlord said that some handles had been removed as a consequence of the Tenant's dogs jumping up and knocking them off. The Tenant denied this and said that the Landlord's daughter had come to the Property and given her handles to fit herself but that she was not prepared to do so in case in fitting the handles, she unintentionally caused damage to doors. The Tenant said that she still had the handles she had been given. The Landlord said that the Tenant had offered to fit the handles herself.

The Tenant said that, when she made the application, there had been a large ditch outside the rear door of the Property but that this was now much shallower. The Landlord said that the existing ditch was a foundation for a boundary wall that he intended to have constructed. He said that the construction of this wall had commenced. The Tenant said that she now had difficulty in accessing her property easily and had no easy way to put her wheeliebins out to the roadside. The Landlord insisted that there was a means of access and egress to and from the property and that there were suitable storage areas for bins and for getting them to the roadside.

The Tenant said that the front step was too high to allow easy access to the garden. The Landlord said that there had previously been a wooden step above the concrete step and that he didn't know when this had been removed or who had been responsible for doing so.

7. Summary of the issues

Sections 13(1)(a),(c) and (d) of The Housing (Scotland) Act 2006 provide that the Property must be wind and watertight and in all respects reasonably fit for human habitation, the installations in the house 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 any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.

The specific issues to be addressed are:

- (a) the quality of the water supply
- (b) The existence or otherwise of a water supply to the Property
- (c) Whether or not the shower is functioning properly
- (d) Whether or not the Aga was properly installed and has appropriate fire retardant material fitted where appropriate
- (e) Whether or not handles of internal doors are missing

- (f) Whether or not the ditch at the rear of the Property impeded access or was dangerous
- (g) Whether or not the step at the front door is too high to allow easy access to the front of the Property.

8. Findings of fact

The Committee found

- 8.1 The quality of the water supply is satisfactory.
- 8.2 There is no water supply to the Property.
- 8.3 It could not determine if the shower is functioning properly.
- 8.4 It could not be determined if the AGA is properly installed and had appropriate fire retardant material fitted.
- 8.5 There are internal doors of the property without handles.
- 8.6 The ditch to the rear of the property does not impede access and is not a hazard to anyone accessing the Property
- 8.7 The step at the front door is adequate for purpose.

9. Reasons

- 9.1 The water supply had been tested by Dumfries and Galloway Council and had been found to be of a satisfactory quality when the ultra violet filter was in operation. The Committee relied on the terms of the letter of the Council dated 8th January 2014 and the fact that the Tenant conceded at the Hearing that the quality of the water was now satisfactory.
- 9.2 The Committee established on inspection that there is no water supply to the Property. This was conceded by the Landlord. The Committee accepted that the supply had failed the previous day. The Committee did not consider that it required to come to any view as to the cause of the failure of the water supply.
- 9.3 Because there was no supply of water the Committee could not establish if the shower is or is not functioning properly. The Committee considered it reasonable for the Tenant to have a functioning shower.
- 9.4 The Committee could see on inspection that a material had been installed behind the AGA but had no means of establishing if it is appropriate material or if the appliance had been properly installed. The Committee considered that the proper installation of the AGA would include proper fire retardant material being installed where recommended by the manufacturer.
- 9.5 It is accepted by both parties that there are handles missing from internal doors. This was also confirmed on inspection.
- 9.6 The ditch at the rear of the Property is shallow and runs along the boundary of the Property and a neighbouring property belonging to the Landlord. The Committee did not accept that the ditch impeded access to the property or was inherently dangerous. It accepted that the ditch was in relation to a boundary wall which is to be constructed and which has been commenced.
- 9.7 The Committee considered that the step at the front of the property was perhaps a little higher than ideal but that it did not impede reasonable access to the property which could be gained without apparent risk to safety.
- 9.8 The Committee did not consider that is required to address the issue about wheeliebins because it had not been included in the application but it considered that, notwithstanding that, there seemed to be sufficient alternative locations for storing them and for taking them to the roadside.

Decision

The Committee accordingly determined that the Landlords have failed to comply with the duties imposed by Section 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) and 24(2) of the Act.

- 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 **M McAllister** Date *20th* February 2014
Chairperson