

A Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Prhp Ref: FK8/138/11

Re : Property at Braehouse Touch, Stirling, FK8 3AH being All and Whole the dwelling house known as and forming Braehouse, Touch, FK8 3AH lying in the County of Stirling, being part and portion of the subjects more particularly described in the disposition in favour of Patrick Bury Buchanan dated Third day of October, nineteen hundred and fifty five and registered in the Division of the General Register of Sasines for the County of Stirling on eight day of February, nineteen hundred and fifty six (search sheet 1356/6293) ("the Property")

The Parties:-

Mr & Mrs Alistair Miller Braehouse Touch, Stirling. ("the Tenants")

Touch Trust, Touch House, Touch Estate by Stirling. Represented by William Anderson of Managed Estates, 1 Springkerse Road, Stirling ("the Landlord")

NOTICE TO:-

Touch Trust, Touch House, Touch Estate by Stirling. Represented by William Anderson of Managed Estates, 1 Springkerse Road, Stirling

Whereas in terms of their decision dated 1 May 2012, 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 and in particular that the Landlord has failed to comply with the duty to ensure that:- the house is wind and water tight and in all other respects reasonably fit for human habitation, that the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order; and that 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.

The Private Rented Housing Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the Repairing Standard and that any damage caused by the carrying out of any of the work in terms of this Order is made good.

In particular, the Private Rented Housing Committee requires the Landlord to:-

1. Rectify rising and penetrating dampness throughout the property.
2. Repair the flooring in the front left bedroom.
3. Treat the woodworm in the roof timbers.

The work in 1, 2 and 3 should be carried out by an appropriately qualified tradesman.

4. Repair/replace all windows and external doors to ensure the property is wind and watertight and decorate as required.
5. Repair/replace gutters and downpipes to ensure they are in a reasonable state of repair.
6. Re-point or re-render exterior stone work including chimney stacks as necessary to ensure the property is wind and watertight and that the structure and exterior of the house is in a reasonable state of repair.
7. Insulate the water pipe that crosses the burn to ensure continuity of water supply.
8. Repair any slipped and broken slates.
9. Repair and make safe the stone boundary wall.

The Private Rented Housing Committee orders that this work should be carried out within a period of 6 months 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 1 May 2012 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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The Parties:-

Mr & Mrs Alistair Miller, Braehouse Touch, Stirling. ("the Tenants")

Touch Trust, Touch House, Touch Estate by Stirling. Represented by William Anderson of Managed Estates, 1 Springkerse Road, Stirling ("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) of the Housing (Scotland) Act 2006 in relation to the house concerned, and taking account of the evidence led by both the Landlord and the Tenants at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the said Act.

Background

- 1. By application dated 20 July 2011 the Tenants 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 Tenants stated that the Tenants considered that the Landlord had failed to comply with the duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:- the house was wind and water tight and in all other respects reasonably fit for human habitation, that the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order and that 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.**
- 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 Tenants.**
- 5. The Private Rented Housing Committee (comprising Mrs Judith Lea, Chairman and Legal Member, Andrew McKay, Housing Member and David Godfrey, Surveyor Member)**

inspected the Property on 19 April 2012. The Tenants were present. 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 Stirling Enterprise Park, Stirling. The Tenant, Mr Miller was present and made representations on his own behalf. The Landlord was represented by Mr Anderson, Agent.
7. Mr Miller confirmed that the issues of concern to him were as set out, numbered 1-16 in his letter dated 17 May 2011. He clarified that issue 6 in connection with the central heating was no longer an issue as oil fired central heating had now been installed. He indicated that the out-building with the oil tank had now collapsed and was no longer there and accordingly was no longer an issue. Mr Miller also advised that the loft insulation was to be carried out the following day and he was satisfied that this would in fact take place. He agreed to phone the offices of the PRHP the following day just to confirm this.
8. In connection with the outstanding issues, Mr Miller stated that the damp problem had been ongoing for 21 years and no rendering of the walls had been done. The floor in the bedroom was sagging and was rotten and would possibly collapse. The windows were painted and repaired by the Tenants until recently but they had stopped doing this because nothing had been done by the Landlord and the windows now required to be replaced. Mr Miller stated that the gutters had required replacement for a long time. He stated that there was woodworm evidenced by wood dust in the loft. He further stated that the damp in the kitchen had got into the cupboards and that the kitchen would benefit from being modified. In connection with the chimneys, Mr Miller stated that he could not use the one in the bedroom because of all the smoke and that linings would help. In connection with the fire in the living room, the metal grate basket had partly melted away and required to be replaced.
9. Mr Miller further submitted that, the water pipe had not frozen this winter but had in past winters and was totally exposed which affected their water supply. The slates on the outhouse building required to be replaced and the dykes and fencing were dangerous. The exterior of the property required painting and re-pointing and the access road was in need of repair. Mr Miller advised that he and his wife had spent a lot of money on the property but due to a lack of interest by the Landlord they were now looking for somewhere else to live.
10. Mr Anderson replied on behalf of the Landlord. He advised that the Landlord had been obtaining prices from tradesmen in connection with all the issues identified. He referred to the report which had been lodged by the Tenants from Richardson and Starling. He explained that the Landlord had now obtained prices for replacing the windows and the doors and in connection with the slates and the gutters. They also had prices for treating the woodworm and putting in a damp proof course but they were awaiting other quotes. Mr Anderson explained that the Landlord wished to put together a full costing and come up with an affordable package. The heating and the insulation have been partly grant funded and partly paid for by the Landlord. Mr Anderson stated that he was not sure whether all the issues were a breach of the repairing standard. In connection with the chimneys Mr Anderson stated that smoke tests will be required to check whether there was anything wrong with them. He accepted that the water pipe situation was not ideal. In connection with the dykes he suggested that perhaps these required to be railed off to avoid danger. In connection with the access road, Mr Anderson stated that it was a track and he was unaware that it was in a particularly bad condition. He stated that if the Tenants were to be moving out it might make more sense to do the works after the property was empty. He however clarified that it would be possible to do the work while the Tenants were still in the property. Mr Anderson stated that there was outstanding rent of £5000 due to the Landlord. Mr Anderson clarified that the Landlord was trying to get a programme of work that was affordable for the estate. It was pointed out to him that it would not be possible to re-let the property while a Repairing Standard Enforcement Order was in place.

11. Decision

The Committee was satisfied on the basis of the inspection and the evidence from the Landlord and the Tenants that oil central heating had now been installed in the property, that the outbuilding containing the oil tank no longer exists and that insulation in the loft would be carried out the following day. The Committee accordingly did not consider that there was any requirement for an order in respect of these three matters.

12. Damp in the bedroom and kitchen, floor drop in the bedroom and woodworm in the loft

It was clear from the inspection and from the report from Richardson and Starling that there is a significant damp problem and a problem with woodworm in the property. Damp meter readings were particularly high in the kitchen and front left bedroom. The drop in the floor in the front left bedroom was evident. The Committee considered that this was a breach of Section 1(a) and 1(b) of the Repairing Standard and considered that an Order was required. Given the fact that toxic materials may be used in rectifying the damp and in woodworm eradication the Committee considered that this work should be carried out by an appropriately qualified tradesman.

13. Windows and Doors

It was also clear from the inspection that most of the windows in the property are draughty and do not have sash cords and the Tenants advised that some were letting in rain. The windows and sills are rotten and poorly maintained. The front and back doors are also draughty and the Tenants advised that rain water came in the back door. The Committee considered that this was a breach of Section 1(b) of the Repairing Standard and that the windows and doors required either to be repaired or replaced to ensure that they are wind and water tight and accordingly the Committee made an Order in respect of this matter.

14. Gutters & Downpipes

It was clear from the inspection that the gutters and downpipes were in places in a state of disrepair. Some guttering was completely missing. The Committee considered that this was a breach of Section 1(b) of the Repairing Standard and made an Order.

15. Kitchen Cupboards and Sink Unit

From the inspection the Committee considered that the kitchen did meet the Repairing Standard and accordingly no Order was made.

16. Chimneys & Exterior Painting & Pointing

The Tenants advised that there was a problem using the fire in the bedroom and that the fire in the living room required a lining. The Committee considered that if the pointing and rendering are satisfactorily repaired this may rectify any problem with the chimneys. It was clear from the inspection that the exterior of the property does require re-pointing and re-rendering. Cracks were obvious in the gable ends and the pointing is in a state of disrepair causing water ingress. The Committee accordingly considered this to be a breach of Section 1(a) and 1(b) of the Repairing Standard and made an Order in respect of the matter.

17. Fire Grate & Fire Brick in Living Room

The Tenants advised that the basket in the grate and fire bricks required repair. However from inspection there was no obvious problem with the fire grate or fire brick and accordingly the Committee was not satisfied that there was a breach of the Repairing Standard.

18. Water Pipe Crossing the Burn

The water supply to the property was working properly on inspection. However it was clear from the Tenants' evidence and also from viewing the pipe that due to its exposed location it is likely to freeze in the winter and accordingly the Committee found a breach of Section 1(c) of the Repairing Standard. The Committee accordingly made an Order in respect of this matter.

19. Slates on Small Outbuilding

It was clear that there were slates missing on the outbuilding which required to be replaced to ensure that the building is safe. There were also slates missing on the main property which may be contributing to the damp problem. The Committee accordingly considered that this was a breach of Section 1(a) and 1(b) and made an Order.

20. Dykes & Fencing

It was clear from inspection that the dykes, being the boundary walls to the Tenants' garden were in a state of disrepair and could be dangerous. The Committee considered this to be a breach of Section 1(b) of the Repairing Standard and accordingly made an Order. The Committee considered the fencing to be in a reasonable state of repair and did not consider that this was a breach of the Repairing Standard.

21. Access Road

The Committee considered that the access road was typical for this type of property and having regard to the age and character of the property and the locality in which it is situated, the Committee did not consider that the state of the access road breached the Repairing Standard.

22. Given the amount of work involved the Committee consider it reasonable to allow the Landlord a period of 6 months to complete the work.

23. Although not specifically raised by the Tenant, it would be a good idea for the Landlord to ensure that there are proper smoke alarms throughout the property.

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

25. The decision of the Committee was unanimous.

Right of Appeal

26. 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

27. 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 Lea

Signed Date 1 May 2012
Chairperson