



## **Repairing Standard Enforcement Order**

### **Ordered by the Private Rented Housing Committee**

**Re 73 Henry Street, Langholm, DG13 0AR being the subjects registered in the land Register of Scotland under title number DMF18802 ('The Property')**

**The Parties:-**

**Alan R Currie residing at 73 Henry Street, Langholm, DG13 0AR ('The Tenant')**

**Catherine Morrison residing at Harbour View, Morvern Hill, Oban, PA34 4RW and James Kilcullen residing at 3 Barclay Court, Old Kilpatrick, Glasgow, G60 5HX ('The Landlords')**

#### **NOTICE TO**

**Catherine Morrison residing at Harbour View, Morvern Hill, Oban, PA34 4RW and James Kilcullen residing at 3 Barclay Court, Old Kilpatrick, Glasgow, G60 5HX**

Whereas in terms of their decision dated 16th April 2015, 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 the solid fuel fire, flue and chimney stack to render them in a reasonable state of repair and proper working order.
- (2) Repoint the gable wall as required to render it in a reasonable state of repair and proper working order.
- (3) Repair the back boiler to render it in proper working order.
- (4) Repair or replace the broken bath.
- (5) Repair or replace the front and back doors to render them wind and water tight.
- (6) Repair the rear garden fence.
- (7) Repair the broken guttering at the rear of the Property.
- (8) Install smoke alarms in the living room and hall of the Property and install a heat alarm in the kitchen of the Property. All alarms to be hardwired and interlinked and comply with the Repairing Standard.

The Private Rented Housing Committee order that these works must be carried out and completed By 31<sup>st</sup> July 2015.

**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 16th April 2015  
Chairperson **K Byrne** .....  
..... 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 73 Henry Street, Langholm, DG13 0AR being the subjects registered in the land Register of Scotland under title number DMF18802 ('The Property')**

#### **The Parties:-**

**Alan R Currie residing at 73 Henry Street, Langholm, DG13 0AR ('The Tenant')**

**Catherine Morrison residing at Harbour View, Morvern Hill, Oban, PA34 4RW and James Kilcullen residing at 3 Barclay Court, Old Kilpatrick, Glasgow, G60 5HX ('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) of the Housing (Scotland) Act 2006 ('the Act') 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 14<sup>th</sup> October 2014 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 Act.
2. The application by the Tenant stated that he considered that the Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. He advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation; that 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; that the fixtures, fittings and appliances 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 he advised:

- 1. Full central heating system preferred or gas.*
- 2. Chimney stack needs fixing as masonry stone is falling into the fireplace.*
- 3. New boiler system required as he cannot have hot water.*
- 4. Shower fitted.*
- 5. New bath as current one is broken.*
- 6. New outer doors and windows as draught whistles in.*
- 7. Garden fence needs to be renewed.*
- 8. Something needs to be done to help with sound proofing.*
- 9. Broken guttering- water splashing everywhere.*
- 10. In April 2013 the chimney and stack were condemned by the fire brigade.'*

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), Alexander Carmichael (Surveyor Member) and Ahsan Khan (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 and the Tenant, dated 2<sup>nd</sup> February 2015.
5. Following service of the Notice of referral James Kilcullen sent written representations stating:  
*'We have been made aware of the points raised with yourselves. However when we attempted to raise the rent in the past, the same performance ensued. Mr Currie engaged the PRHP who examined the Property and held a meeting thereafter. When it was discussed, Mr Currie insisted that despite his complaints he wanted to remain in the house. He has stayed there since paying the same £25 per week agreed with a deceased person. We had attempted to deal with a repair, asked for entry and advised him that further visits would be required to carry out the work. We were told that this would not be convenient. We have never held keys to the property, which may have a detrimental effect on the property if any emergency eg flooding, frozen pipes were to occur, especially when the property is left empty for long periods during the winter.'*
6. The Committee attended at the Property on 30<sup>th</sup> March 2015. The Tenant, his partner Tracey Armstrong, John Kilcullen (one of the Landlords) and his partner Grace Mitchell and also John Kilcullen's solicitor Sarah Powell were present.

The Property is a three apartment end terrace flat situated on the ground floor of a two storey end terrace building estimated to be approximately 110 years old.

The Committee inspected the alleged defects and found as follows:-

1. Full central heating system preferred or gas.

There is no central heating in the Property. The Property was heated by an open coal fire in the living room, which the Tenant is unable to use at present, as later explained. The Landlords had provided portable heaters.

2. Chimney stack needs fixing as masonry stone is falling into the fireplace and in April 2013 the chimney and stack were condemned by the fire brigade.

The Tenant explained that he had been unable to use the coal fire and back boiler since April 2013, when they were condemned by the fire brigade. Smoke had entered the flat upstairs due to defective pointing in the chimney and chimney stack.

3. New boiler system required as he cannot have hot water.

There is a hot water tank and immersion heater situated in the kitchen. The Tenant explained that as it takes over two hours for the hot water to heat up he does not use it. Also he has been unable to use the back boiler since he was prevented from using the open fire.

4. Shower fitted.

There was no shower in the bathroom.

5. New bath as current one is broken.

There were a number of cracks in the bottom of the bath and it could not be used.

6. New outer doors and windows as draught whistles in.

There were gaps between the back and front doors and the surrounding door frames. Daylight could be seen through the gaps.

7. Garden fence needs to be renewed.

The wooden garden fence at the rear of the Property was rotten and broken in places.

8. Something needs to be done to help with sound proofing.

The Tenant explained that the sound proofing was poor and he could hear the occupants in the flat upstairs.

9. Broken guttering- water splashing everywhere.

The gutters to the front of the property had been repaired. The gutters at the rear of the property were broken in places.

10. Smoke Alarms.

There are no smoke alarms in the Property.

7. Following the inspection of the Property the Committee held a hearing at The Buccleuch Centre, Buccleuch Place, Langholm. The Tenant, his partner Tracey Armstrong, Mr John Kilcullen (one of the Landlords) and his partner Grace Mitchell and also Mr Kilcullen's solicitor Sarah Powell attended the hearing.

The parties acknowledged that they had received notification of the application and the other papers and advised the Committee as follows:

Full central heating system preferred or gas and chimney stack needs fixing as masonry stone is falling into the fireplace and in April 2013; the chimney and stack were condemned by the fire brigade.

The Tenant explained that there is no heating in the Property and he can't use the open fire or the back boiler as the fire was condemned in 2013 by the fire brigade. Masonry had been falling into the fireplace and when the fire was last used smoke entered the property upstairs.

John Kilcullen explained that he would have to arrange for someone to look at the flue. However access would have to be provided.

New boiler system required as he cannot have hot water.

The Tenant confirmed that the immersion heater situated in the kitchen works but he doesn't use it as it takes too long to heat up the water.

Shower fitted and new bath required as current one is broken.

The tenant explained that there is no shower in the bathroom and he can't use the bath as it is cracked.

New outer doors and windows as draught whistles in.

The Tenant explained that both the front and back doors are draughty.

Garden fence needs to be renewed.

The wooden garden fence at the rear of the Property was broken and rotten in places.

Something needs to be done to help with sound proofing.

The Committee advised that this was not part of the Repairing Standard.

Broken guttering- water splashing everywhere.

The Tenant explained that the gutters to the front of the property had been repaired but one section of the gutters at the rear of the Property was broken.

Smoke Alarms.

The parties acknowledged that there are no smoke alarms in the Property.

## **6. Summary of the issues**

The issues to be determined are:-

The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

Whether the gaps between the front and back doors and the surrounding door frames render them not wind and water tight.

The structure and exterior of the Property was not in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

Whether the state of repair of the chimney stack and flue, the gable wall, the rear garden fence and the rear guttering render them 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 (Section 13(1)(c) of The Housing (Scotland) Act 2006).

Whether the condition of the back boiler renders it not in a reasonable state of repair and proper working order.

That the fixtures, fittings and appliances provided by the Landlords under the tenancy were not in a reasonable state of repair and in proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

Whether the condition of the bath renders it not in a reasonable state of repair and in proper working order.

The Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (section 13(1)(f) of The Housing (Scotland) Act 2006).

Whether the Property has sufficient provision for detecting fires and for giving warning in the event of fire or suspected fire.

## **7. Findings of fact**

The Committee found:-

There is no requirement under the Repairing Standard for the Landlords to install a new central heating system. The obligation under the Repairing Standard is to have the existing heating system repaired to render it in proper working order. Also there is no requirement under the Repairing Standard to have sound proofing works carried out to the Property or to have a shower installed.

The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

Daylight was visible through the gaps between the front and back doors and the surrounding door frames rendering them NOT wind and water tight.

The structure and exterior of the Property was not in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

The chimney stack and flue had been condemned by the fire brigade and were NOT in a reasonable state of repair and proper working order.

Masonry was falling from the gable wall and it was NOT in a reasonable state of repair and proper working order.

The rear garden fence was rotten and broken and the rear guttering was also broken rendering them 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 (Section 13(1)(c) of The Housing (Scotland) Act 2006).

The Tenant was not able to use the coal fire in the living room and its back boiler since the chimney and stack had been condemned by the fire brigade. Consequently the coal fire and its back boiler were not in a reasonable state of repair and proper working order.

That the fixtures, fittings and appliances provided by the Landlords under the tenancy were not in a reasonable state of repair and in proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

As the bath was cracked it was not in a reasonable state of repair and in proper working order.

The Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (section 13(1)(f) of The Housing (Scotland) Act 2006).

The absence of smoke detectors results in the Property NOT having satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

### **Decision**

8. The Committee accordingly determined that the Landlords had failed to comply with the duties imposed by Sections 13 (1)(a),(b),(c),(d) (f) and 14 of the Act, as stated.

9. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1). The Repairing Standard Enforcement Order has a time limit of 31<sup>st</sup> July 2015 for the Landlords to carry out works necessary to bring the Property up to the repairing standard.

10. The decision of the Committee was unanimous.

### **Right of Appeal**

11. 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**

12. 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 16<sup>th</sup> April 2015  
Chairperson