

Determination by the Private Rented Housing Committee

Statement of decision of the Private Rented Housing Committee under Section 24(1) of the Housing (Scotland) Act 2006

ref: PRHP/FK2/150/10

Re: Property at 59 Montgomery Street, Falkirk FK2 9BN ("the Property")

Title No: STG6191

The Parties:-

**Ian Green, 27 MacFarlane Crescent, Cambuslang, Glasgow G72
("the Landlord")**

Janice Aitken, 59 Montgomery Street, Falkirk ("the Tenant")

Decision

The Committee, having made such enquiry as it sees fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14(1)(b) of the said Act in relation to the property concerned, and taking account of the whole written and oral evidence determines that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.

Background

- 1. By application dated 22nd October 2010 the Tenant applied to the Private Rented Housing Panel for a determination as to 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 Tenant stated she considered the Landlord has failed to comply with the duty to ensure the house meets the repairing standard and brought forward the following alleged breaches:-**
 - (a) Windows not weatherproof**

- (b) Heating not capable of being used
 - (c) Faulty electrics
 - (d) Roof not watertight or safe
 - (e) Chimney stack not safe
 - (f) Gutters and rhones leaking
 - (g) Kitchen and bathroom fittings in poor repair
 - (h) External doors not weatherproof
 - (i) Kitchen flooring not replaced
 - (j) No smoke detectors
3. The Private Rented Housing Committee served a Notice of Referral dated 23rd November 2010 under and in terms of Schedule 2, Paragraph 1 of the Act on both the Landlord and the Tenant.
4. The Private Rented Housing Committee inspected the property on the morning of the 31st of January 2011. The Committee comprised Mrs. Anne McCamley, Chairman, Mr. Ian Mowatt, Surveyor and Mr. Chris Harvey (Housing Member). Both the Tenant and the Landlord had been invited to attend both the inspection and the Hearing however only the Tenant and her representative Mr. Craig Beatt of Falkirk Council were in attendance at the inspection.
5. Following the inspection of the property the Private Rented Housing Committee held a Hearing at The Park Hotel in Falkirk. Although both parties had been invited to attend the Hearing only the Tenant attended supported by her representative Mr. Beatt. The Tenant did not make lengthy oral submissions relying instead upon the written evidence contained with the application.

Findings of Fact

6. Having inspected the property and taken account of the oral and written evidence and thereafter being guided by the Committee's professional Member, the Committee finds the following facts to be established:-

(a) During the course of the inspection it was self evident that a significant number of roof tiles have slipped, several of which have fallen into the front garden.

The guttering is not aligned with the roof.

The down pipes are corroded and leaking.

The chimney stack is cracked.

The windows do not fit their frames and are not weatherproof.

The external doors are not weatherproof.

We accept the written evidence of the Fire Service that chimney breast parts are missing, the lining and the flue are in a poor state of repair and the stone hearth of the fireplace is cracked.

While we did not find current water penetration in the roof space there is evidence of historic dampness.

In light of the foregoing we determine the structure and exterior of the house is not in a reasonable state of repair and there is a breach of Section 13(1)(b) of the Housing (Scotland) Act 2006.

(b) The coal fire cannot be lit because the chimney stack is in a state of serious disrepair. The Firemaster has warned against using the fire until the chimney is repaired. The central heating is run by way of a back boiler heated by that coal fire. As a consequence thereof the central heating is currently not in working order.

The electric socket in the hall and the light switch on the landing are detached from the wall. Some wiring is exposed.

Accordingly we determine the installations in the house for the supply of electricity

and space heating are not in a reasonable state of repair or proper working order and there is a breach of Section 13(1)(c) of the aforesaid Act.

(c) During the course of the inspection we saw a tap missing from the kitchen sink, the kitchen work surface is not properly attached to the base and the kitchen linoleum has been removed but not replaced.

As a result of the faults found in the kitchen we determine there is a breach of Section 13(1)(d) of the aforesaid Act.

(d) It is self evident that there is no smoke detector in the house. Accordingly there is a breach of Section 13(1)(f) of the aforesaid Act.

The tenant complained of dampness in the kitchen. We found a small damp patch which we believe will resolve when external works are completed. The bathroom fittings are old but we found them to be in a reasonable state of repair. The plasterboard wall covering may be ugly but is only of cosmetic significance and is not relevant in terms of the repairing standard.

Decision

7. The Committee accordingly determines that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.
8. The Committee makes a Repairing Standard Enforcement Order as required by Section 24(1) of the Act.
9. The decision of the Committee is unanimous.

Right of Appeal

10. **A Landlord or Tenant aggrieved by the decision of the Private Rented Housing Committee may apply to the Sheriff by summary application within 21 days of being notified of that decision.**

Effect of Section 63

11. 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.

A McCamley

Signec

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Chairman
PRMP.

Date

31/1/11

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Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

ref: PRHP/FK2/150/10

Re: Property at 59 Montgomery Street, Falkirk FK2 9BN ("the Property")

Title No: STG6191

The Parties:-

**Ian Green, 27 MacFarlane Crescent, Cambuslang, Glasgow G72
("the Landlord")**

Janice Aitken, 59 Montgomery Street, Falkirk ("the Tenant")

**NOTICE TO Ian Green, 27 MacFarlane Crescent, Cambuslang, Glasgow G72
("the Landlord")**

Whereas in terms of their decision dated 31st January 2011, 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 that the landlord has failed to ensure:-

- (1) 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 - Section 13(1)(b) of the said Act

- (2) That the installations in the house for the supply of electricity and space heating are in a reasonable state of repair and in proper working order - Section

13(1)(c) of the Act

(3) That any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order - Section 13(1)(d) of the said Act.

(4) That the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire - Section 13(1)(f) of the said Act.

the Private Rented Housing Committee now requires the landlord to carry out such works as are necessary for the purpose of ensuring the house meets the repairing standard and that any damage caused by the carrying out of any works in terms of this order is made good.

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

- To completely overhaul the roof to ensure it is safe and in a reasonable state of repair.
- To repair or replace all the windows and external doors to ensure they fit their frames and are made weatherproof.
- To repair or replace the guttering and down pipes.
- To overhaul and render the chimney stack both inside and out to ensure it can operate safely.
- To carry out whatever work is required to ensure the central heating system is returned to a reasonable state of repair and proper working order.
- To replace and /or repair the kitchen tap, the work surface and the floor covering in the kitchen.
- To provide a hard-wired smoke alarm throughout the house.

The Private Rented Housing Committee order that the work specified in this Order must be carried out and completed within a period of **six months** from the date of service of this Notice.

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.

In witness whereof these presents typewritten on this and the two preceding pages are executed by Anne McCamley, Solicitor, Chairman of the Private Rented Housing Committee at Edinburgh on the Third day of February, Two Thousand and Eleven before Murdoch McCamley, Chartered Accountant, Osborne House, Osborne Terrace, Edinburgh.

M McCamley

(witness))

A McCamley

Chairman)
PRHP