

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/FK2/183/10

Re: Property at 99 Carronside Street, Bainsford, Falkirk ("the Property")

Title No: STG11770

The Parties:-

**Questway Limited, 260 Glasgow Road, Rutherglen, Glasgow G73 1UZ
("the Landlord")**

Jessica Ryan, 99 Carronside Street, Bainsford, 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 evidence together with the inspection, 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 13th December 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) There is dampness throughout the property

(b) The central heating and the gas supply are defective

(c) The electrics are faulty

(d) The chimney stack is in poor condition

(e) The shower tiling is defective

(f) The windows are not watertight

(g) The side door is not weatherproof

3. The Private Rented Housing Committee served a Notice of Referral dated 17th December 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 21st of February 2011. The Committee comprised Mrs. Anne McCamley, Chairman, Mr. Ian Mowatt, Surveyor and Mr. John Blackwood (Housing Member). Both the Tenant and the Landlord had been invited to attend both the inspection and the Hearing. The Tenant was present at the inspection however neither party attended the Hearing.

5. Following the inspection of the property the Private Rented Housing Committee held a Hearing at The Park Hotel, Falkirk. Neither party attended the Hearing.

Findings of Fact

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

(a) There are high damp meter readings in the walls of the hall, both bedrooms, kitchen and shower room.

(b) The central heating is defective in so far as the back boiler is not sparked when the gas fire in the sitting room is lit. The back boiler generates the heating system. The gas fire in the sitting room can be used independently.

(c) The fuse box is dated and faulty. The electrical supply shorts and causes disruption to appliances.

(d) The chimney stack does not exhibit disrepair.

(e) The windows tilted and turned. They fitted their frames. There was no evidence of water penetration from the windows. A pane of window glass is cracked. In terms of the lease glass repair is the responsibility of the Tenant.

(f) The external door fitted its frame and locked. The door appeared weatherproof as at the date of inspection.

In light of the foregoing finding (a) 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.

Further in light of findings (b) and (c) above we determine that the installations in the house for the supply of gas and electricity and space heating are not in a reasonable state of repair or in proper working order and there is a breach of Section 13(1)(c) of the aforesaid Act.

The tiling in the shower room is a decorative matter and does not form part of the repairing standard. From our own inspection we are satisfied the chimney stack, the windows and the external door are all in a reasonable state of repair. The external render of the property is in a satisfactory state, any problems should be resolved when the dampness is eradicated.

We believe the fundamental problem in this property is the rising penetrating and condensation dampness. There may also be leaking pipes behind the shower unit which leak affects the kitchen walls.

We noted the property does not benefit from a hard wired smoke alarm. The Landlord should remedy this however as this matter was not mentioned in the referral to the committee it cannot be made part of these proceedings.

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.

Signed **A McCamley**
Chairman

Date 21/2/11

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

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**Questway Limited, 260 Glasgow Road, Rutherglen, Glasgow G73 1UZ
("the Landlord")**

Jessica Ryan, 99 Carronside Street, Bainsford, Falkirk ("the Tenant")

**NOTICE TO Questway Limited, 260 Glasgow Road, Rutherglen, Glasgow
G73 1UZ ("the Landlord")**

Whereas in terms of their decision dated 21st February 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 water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order - Section 13(1)(c) of the 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 investigate and repair the rising and penetrating dampness defects in the walls in the hall, both bedrooms, kitchen and shower room of the property. This work should be carried out by specialist trades. Any specialist reports must be made available to the Committee prior to the re-inspection.
- To repair or replace the gas central heating system and to produce a gas safety certificate.
- To obtain a periodic inspection report from a qualified electrician having regard to the electrical wiring, circuits and fuse box. Thereafter to carry out all the recommendations contained within the report.

The Private Rented Housing Committee order that the work specified in this Order must be carried out and completed within a period of **four 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 preceding page are executed by Anne McCamley, Solicitor, Chairman of the Private Rented Housing Committee at Edinburgh on the Twenty eighth day of February Two Thousand and Eleven before Murdoch McCamley, Chartered Accountant, Osborne House, Osborne Terrace, Edinburgh.

M McCamley

(witness)

J

A McCamley

Chairman PRHP