

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

ref: PRHP/EH/48/27/11

Re: Property at 65 Mill Road, Bathgate ("the Property")

Title: Title Number WLN7815

The Parties:-

**Richard Iain Jolliffe, Lochside House, 3 Lochside Way, Edinburgh
("the Landlord")**

Steven Clarke, 65 Mill Road, Bathgate ("the Tenant")

**NOTICE TO Richard Iain Jolliffe, Lochside House, 3 Lochside Way,
Edinburgh ("the Landlord")**

Whereas in terms of their decision dated 9th May 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) The structure and exterior of the house are in a reasonable state of repair and proper working order - Section 13(1)(b) of the said Act.
- (2) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and water heating are in a reasonable state of repair and in proper working order - Section 13(1)(c) of the said Act.

the Private Rented Housing Committee now requires the landlord to carry out such works as are necessary for the purposes 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 carry out such works as are necessary to ensure an effective water supply into the house.
- To repair or replace leaking pipes and stopcock and to make good the surrounding finishes.
- To repair the step from the kitchen into the living room and to fit a "nosing" thereto to prevent a trip hazard.

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

M McCamley

(Witness)

C

A McCamley

Chairman

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/EH/48/27/11

Re: Property at 65 Mill Road, Bathgate ("the Property")

Title: Title Number WLN7815

The Parties:-

**Richard Iain Jolliffe, Lochside House, 3 Lochside Way, Edinburgh
("the Landlord")**

Steven Clarke, 65 Mill Road, Bathgate ("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 evidence led by both the Landlord and the Tenant at the Hearing 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 12th January 2011 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 he considered the Landlord had failed to comply with the duty to ensure the house meets the repairing standard and brought forward the following alleged breaches:-**

(a) The guttering is faulty.

(b) There is dampness in the bedroom.

(c) There is a leak under the kitchen sink and the whole water supply is controlled by the stopcock under the sink. It is necessary to close the stopcock until such time as water is actually required as otherwise the kitchen pipes leak. Damage has been caused to the cupboard under the sink and the kitchen walls during an earlier attempt to repair burst pipes.

(d) The step down from the kitchen into the living room is in a poor state of repair

and presents a trip hazard.

3. The Private Rented Housing Committee served a Notice of Referral dated 17th March 2011 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 comprising Mrs. Anne McCamley, Chairman, Mr. John Blackwood, Housing Member and Mr. Donald Marshall, Surveyor, inspected the property on the morning of the 9th of May 2011. The Tenant was in attendance with his representative Ms. Stather from the Cyrenians. The Landlord had been invited to attend but did not do so.
5. Following the inspection of the property the Private Rented Housing Committee held a Hearing at the Cairn Hotel, Blackburn Road, Bathgate. The Tenant and his representative made submissions to the Committee. Although the Landlord had been invited to attend he did not do so.
6. The Tenant submitted that he had found the whole process very stressful. His Landlord had acknowledged that repairs were required but had not been in touch to carry them out. Around December time a plumber had tried to fix two burst pipes however since then if the stopcock is left open water pipes leak underneath the kitchen floor. The only way to stop the leak is to turn off the water. The Tenant explained that when he wanted to use the water he had to turn on the stopcock for a brief period. He was not able to flush the toilet without first turning on the stopcock. The living room step presents a trip hazard. The guttering was repaired by a neighbour at the beginning of the month.

Findings of Fact

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

(a) During the course of the inspection we took dampness readings in the bedroom. The reading was not of concern although there was evidence of some dampness in a corner of the bedroom. Having heard the Tenant explain he dried his laundry on the radiator positioned on the damp wall we are satisfied that on balance of probability any dampness is as a result of this practice. Accordingly as regards this aspect of the Tenant's application we determine the Landlord has complied with the duty imposed by Section 14(1)(b).

(b) The Tenant requires to open and close the stopcock to control the supply of water into the property. If the stopcock is open the water pipes leak and the kitchen floor saturates. The Tenant cannot flush the w.c. without first opening the stopcock. Accordingly we are satisfied there is a failure to meet the repairing standard set out in Section 13(1)(c) of the Act.

(c) The step down from the kitchen into the living room is uneven and unsafe. The Landlord is in breach of Section 13(1)(b) of the Act.

(d) The guttering has been repaired and is no longer of concern to this Committee. It should be noted the guttering was repaired by the Tenant's neighbour and not by the Tenant's Landlord.

Decision

8. The Committee accordingly determines that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.

9. The Committee makes a Repairing Standard Enforcement Order as required by Section 24(1) of the Act.

10. The decision of the Committee is unanimous.

Right of Appeal

11. 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

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.

A McCamley

Signed .

Chairman



Date

10th May 2010.