



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP/TD15/70/11

Re:

**All and whole the subjects known as 2 Peelham Cottage, Foulden, Berwick Upon Tweed, TD15 1UG being the subjects more particularly described in the disposition to Archibald Baird recorded in the General Register of Sasines recorded 8 July 1914
("the Property")**

The Parties:-

**Mrs Jennifer Manningham resident at the Property
("the Tenant")**

and

**Cayley Walton Partners
Peelham Farm
Foulden
Berwickshire
TD15 1UG
("the Landlords")**

NOTICE TO THE LANDLORD

Whereas in terms of their decision dated 20 June 2011, the Private Rented Housing Committee determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlords had failed to ensure that:

- (a) the Property was wind and water tight and in all respects reasonably fit for human habitation;
- (b) the structure and exterior of the Property (including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order;

The Private Rented Housing Committee now requires the Landlords to carry out such works as are 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:-

- (a) repair the gutters and redress the slates as appropriate to ensure that they are in proper working order;
- (b) repair or replace the window frame in the rear-facing bedroom to ensure that it is in a reasonable state of repair and in proper working order;
- (c) repair or replace the window frame in the bathroom to ensure that it is in a reasonable state of repair and in proper working order;
- (d) investigate the cause of the dampness in the internal wall/ceiling in the porch and carry out such works as are necessary to ensure that the dampness is eradicated and that the porch is water tight;
- (e) make good any damage to the plasterwork and the decorations resulting from the remedial works carried out in accordance with this Order.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of six 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 this and the preceding pages are subscribed by Ronald G Handley, solicitor, chairperson of the Private Rented Housing Committee at Dunbar on twentieth day of June 2011 before this witness:

J Handley

witness

JANE HANDLEY

name in full

23 LESLIE WAY

address of witness

DUNBAR

EH42 1GP

COLLEGE MANAGER

occupation

R Handley

chairperson



Decision by the Private Rented Housing Committee

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

PRHP/TD15/70/11

Re: The residential dwellinghouse at

**2 Peelham Farm Cottage
Foulden
Berwick Upon Tweed
TD15 1UG
("the Property")**

The Parties:-

**Mrs Jennifer Manningham resident at the Property
("the Tenant")**

and

**Cayley Walton Partners
Peelham Farm
Foulden
Berwickshire
TD15 1UG
("the Landlords")**

The Committee comprised:

**Mr Ron Handley – Chairperson
Mr Donald Marshall – Surveyor
Mr John Blackwood – Housing Member**

The Committee's Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords had complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, and taking account of the evidence before it, unanimously determined that the Landlords had failed to comply with the duty imposed by Section 14(1)(b). The Committee therefore requires that the Landlords carry out works as are necessary to ensure that the Property meets the Repairing Standard and that any damage caused by the carrying out of any such works

is made good. The Committee issued a Repairing Standard Enforcement Order as annexed to this Statement of Reasons.

The Background

1. On 28 March 2011 the Tenant applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlords had failed to comply with the duties imposed by Section 14(1)(b) of the Act.
2. Following receipt of the Tenant's application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee in accordance with Section 22(1) of the Act.
3. On or around December 2010 sole ownership of the Property was transferred from Amanda Beatrice Caley to the Landlords.

The Application

4. In her application the Tenant alleged that the Landlords had failed to comply with their duty to ensure that the Property met the Repairing Standard (as defined in the Act). It was submitted that the Landlords had failed to ensure that the Property was wind and water tight and in all respects reasonably fit for human habitation and that the structure and exterior of the Property (including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order.
5. In particular the Tenant submitted in her Application Form that the gutter and the roof of the Property had been in need of repair since the winter of 2009/2010. Furthermore the window frame in the back bedroom was rotting due to the water running down the outside wall. The bathroom window was also in need of repair and there was dampness in the porch due to loose tiles.

The Evidence

6. The Committee had before it documents which included Land Register documents, a "Condition Survey" prepared by Smith & Garratt, a copy of the Application Form, various letters sent by the PRHP to the Tenant and the Landlords, copies of various e-mails, an invoice dated 11 March 2011 from Shorty McCann and various photographs.

The Inspection

7. The Committee inspected the Property on 9 June 2011 at 11.00am. The Tenant was present at the inspection. The Landlords were not represented.

The Hearing

8. A Hearing was arranged for 12.15pm in Eyemouth Community Centre, Albert Road, Eyemouth. The Tenant attended the Hearing. The Landlords did not attend and were not represented.
9. The Chairman welcomed the Tenant to the Hearing and reminded her of the issues to be considered by the Committee.
10. The Tenant told the Committee that some works had been carried out to the gutters at the rear of the Property. However when there was heavy rain, water ran down the external wall. She thought that some slates at the rear of the Property had been replaced. The gutters at the front of the Property were problematic.
11. In regard to the bedroom window frame, the tenant advised that it had been in a poor condition for some time. She explained that this bedroom was no longer used and she was unsure if the rotting of the wood on the inside of the window frame was as a result of water ingress or from condensation. She was unsure if this window was wind tight. In regard to the window in the bathroom the Tenant explained that it did not open and close properly and the catch was not working. The appellant provided the Committee with two photographs of the gutters at the rear of the Property.

Summary of the issues

12. The issue to be determined by the Committee was whether the Landlords had complied with the requirements of the Act in ensuring that the Property met the Repairing Standard.

Findings

13. The Committee found the following facts to be established:
 - On or around 1982 Amanda Beatrice Caley and the Tenant entered into a Tenancy Agreement that related to the Property. On or around December 2010 sole ownership of the Property was transferred from Amanda Beatrice Caley to the Landlords.
 - The Property is a single storey detached cottage built of stone with a slated roof. The accommodation comprises a small porch, sitting room, bathroom, kitchen, pantry and two bedrooms. There is a small garden to the front of the Property and an enclosed garden to the rear.
 - The gutters of the property are not in proper working order. Rainwater runs down the external wall at the rear of the Property.
 - The lower section of the window frame in the bathroom is rotting and is not in a reasonable state of repair.

- The window in the bathroom does not open and close properly and the catch is broken. This window is not in a reasonable state of repair.
- There is dampness in the internal wall/ceiling in the porch.

Reasons for the Decision

14. In her Application Form the Tenant submitted that the gutters were in need of repair and that water ran down the external walls. It was not raining at the time of the inspection but the Committee noted that although the gutters were fixed securely, they were not aligned properly and the Committee had little reason to doubt that they overflowed during periods of rain. The Committee had little hesitation in finding that the gutters at the rear of the Property were not in proper working order.
15. It also appeared to the Committee that the gutters at the front of the Property were not aligned properly and the Committee found that the gutters at the front of the Property were not in proper working order.
16. In the course of the inspection the Committee noted that the lower section of the window frame in the rear-facing bedroom was damaged by rot. It appeared that the exterior of the window frame had not been treated/painted for some time and this had clearly led to the deterioration of the frame. The lower section of the interior of the frame was also damaged by rot. Without further investigation the Committee could not determine the cause of the rot – it could be as a result of condensation or water ingress. In any event this window frame was not in a reasonable state of repair.
17. The Committee noted that the bathroom window did not open and close properly and that the catch was broken. The bathroom window was not in a reasonable state of repair or in proper working order.
18. The Committee also noted that there was an area of dampness in the wall/ceiling in the porch (at the front door). The Committee were unable to conduct an inspection of the roof but it appeared reasonably likely that this dampness was caused by defective slates.

Decision

19. The Committee determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.
20. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) of the Act.
21. The decision of the Committee was unanimous.

Right of Appeal

22. A Landlord(s) or Tenant aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63

23. 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. 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 R Handley Date 20 June 2011
Chairperson