



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

**prhp ref: RP/14/0196**

**Re 20 McGregor Avenue, Stevenston, KA20 4BW being the subjects registered in the Land Register of Scotland under title number AYR 53993 ('the Property')**

**The Parties:-**

**Miss Jamie-Lee Brown residing formerly at the Property and represented by North Ayrshire Families, 24 Nethermains Road, Kilwinning, KA13 6EY ('the tenant')**

**Ramzan Hameed, residing at 2 Bernera Place, Kilmarnock, KA3 2HL ('the landlord')**

### **NOTICE TO RAMZAN HAMEED ("the Landlord")**

Whereas in terms of their decision dated 8<sup>th</sup> April 2105 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 that the structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order and that installations in the Property 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, the Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned 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 following:-

- 1. The landlord is to carry out repairs to ensure that the W.C. pan, cistern and associated fittings are properly secured.**
- 2. The landlord is to carry out repairs to the living room window to ensure that it operates effectively.**
- 3. The landlord is to carry out repairs to ensure that the bedroom radiator is operating properly with a consistent heat through its full height.**

**The landlord is required to carry out the work within twenty one days of intimation of the repairing standard enforcement order.**

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.

**Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.**

In witness whereof these presents typewritten on this page are executed by Martin McAllister, solicitor, chairperson of the Private Rented Housing Committee at Saltcoats on 8<sup>th</sup> April 2015 before Andrew Blair, solicitor, 51 Hamilton Street, Saltcoats, KA215DX

Andrew Blair

\_\_\_ witness

Martin McAllister\_

chairman



## **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**

**prhp ref: RP/14/0196**

**Re 20 McGregor Avenue, Stevenston, KA20 4BW being the subjects registered in the Land Register of Scotland under title number AYR 53993 ('the Property')**

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

**Miss Jamie-Lee Brown residing formerly at the Property and represented by North Ayrshire Families, 24 Nethermains Road, Kilwinning, KA13 6EY ('the tenant')**

**Ramzan Hameed, residing at 2 Bernera Place, Kilmarnock, KA3 2HL ('the landlord')**

#### **Decision**

**The Committee, having made such enquiries as it saw fit for the purposes of determining whether the landlord has complied with the duty imposed by Section 14 (1) (b) of The Housing (Scotland) Act 2006 in relation to the Property, determined that the landlord has failed to comply with the said duty and made a repairing standard enforcement order.**

#### **Background**

- 1. By application dated 13<sup>TH</sup> August 2014 the tenant applied to the Private Rented Housing Panel for a determination of whether the landlord has 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 that the landlord had failed to comply with the duty to ensure that the Property meets the repairing standard. The application contended that the structure and exterior of the house (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order; that installations in the house 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 in proper working order and that fixtures, fittings, and appliances supplied by the landlord under the tenancy are not in a reasonable state of repair and in proper working order.

In particular the application stated that:-

- 2.1 The shower does not work.
- 2.2 A bedroom radiator does not work.
- 2.4 The toilet is not affixed to the floor.
- 2.3 The cooker does not work properly.
- 2.4 A bedroom door is broken.
- 2.5 Uneven flooring, gaps in flooring and broken floorboards.
- 2.6 The living room window is broken.

3. The President of the Private Rented Housing Panel, having considered the application, referred the application under Section 23 (1) of the Act to a Private Rented Housing Committee. The Committee members are **Martin McAllister (Chairperson), George Campbell (Surveyor Member) and Colin Campbell (Housing Member)**.
4. The Private Rented Housing Panel served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the landlord and the tenant, dated 10<sup>th</sup> February 2015.
5. Prior to referral to a Private Rented Housing Committee, the tenant intimated that the issue of the bedroom door had been resolved and that she wanted to withdraw that matter from her application. Subsequent to submitting the application, the tenant had indicated that a gas fire in the Property was not working but this matter did not form part of the application to the Private Rented Housing Panel.
6. The Private Rented Housing Committee was advised by the landlord that the tenant had moved out of the Property on 15<sup>th</sup> November 2014. Having considered matters, the Committee considered the application in terms of Schedule 2 Para 7(3) of the Housing (Scotland) Act 2006 and a Minute of Continuation was executed on 12<sup>th</sup> March 2015. The Committee took the decision to continue the application on public interest grounds.
7. The members of the Private Rented Housing Committee inspected the property on 7<sup>th</sup> April 2015. The current tenant, Ms Carling, was present. Neither the landlord nor his agent was present. The Property is a ground floor flat in a block of four self contained flats. There is a hall, living room, kitchen, bathroom and two bedrooms. In relation to the matters raised by the tenant in her application and with reference to the repairing standard in terms of Section 13 of the Act the members of the Committee found:
  - 7.1 The shower is working and supplies hot water.

7.2 The bedroom radiator is working but is not heating evenly throughout its height.

7.3 The toilet is not effectively secured to the floor and also the cistern is not fixed to the wall allowing movement which causes leaks.

7.4 The current tenant confirms that all four cooker rings are operative.

7.5 The flooring in the living room is uneven at the window.

7.6 The left hand hopper opening section of the living room window (viewed from inside) is secured with tape and could not be operated.

7.7 There is one hard wired smoke detector in the hallway which was tested and found to be operational.

7.8 There is a carbon monoxide detector outside the cupboard where the gas boiler is situated.

7.9 There is no gas fire.

8.1 Issue of whether or not the structure of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order

The window in the living room is not working effectively. One of the hopper windows is not operational. The opening section is taped shut.

8.2 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.

The toilet is not properly secured causing leaks. The bedroom radiator, though operational, does not heat evenly through its height.

8.3 Issue of whether or not any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.

The current tenant advises that the cooker is operational.

9. Following the inspection of the Property the Private Rented Housing Committee held a Hearing at the Lauriston Hotel, Saltcoats. No party attended the Hearing.

## **10. Preliminary Matter**

The Committee had regard to whether or not it could consider any aspect of the application under Section 13 (1) (b). The tenant had not ticked the appropriate box in her application and the Committee had to consider whether or not it could consider the issue of the broken window. The tenant had stated in the application that the living room window is broken and the Committee

found that this was sufficient notice to the landlord and that it could therefore consider this section of the Act in relation to the repairing standard.

## **11. Summary of the issues**

Sections 13(1) (b), (c) and (d) of The Act provide 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, that installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water must be in a reasonable state of repair and in proper working order and that any fixtures, fittings and appliances provided by the landlord under the tenancy must be in a reasonable state of repair and in proper working order.

The specific issues to be addressed are relating to the shower, radiator, toilet, cooker, uneven flooring and living room window.

## **12. Evidence**

No evidence was led at the Hearing.

## **13. Findings in fact**

The Committee found:

13.1 The toilet is not properly secured.

13.2 The living room window is not working properly. The left hand hopper opening section (viewed from inside the house) is not working and is taped up.

13.3 There is a hard wired smoke detector in the hallway and one carbon monoxide detector.

13.4 The cooker is working.

13.5 The bedroom radiator is working but not heating consistently through its full height.

13.6 The flooring at the living room window is slightly uneven.

13.7 The shower is working.

## **14. Reasons**

The Committee's findings were based on its inspection of the Property.

## **Decision**

The committee had to determine whether or not there are any of its findings in fact that constituted a failure by the landlord to ensure that the property meets the repairing standard in terms of the duty imposed by Section 14 (1) (b) of the Act.

***The Committee accordingly determined that the Landlord has not complied with the duties imposed by Section 13(1)(b) and 13(1)(c) of the Act and determined that a repairing standard enforcement order be made in the following terms:***

- 1. The landlord is to carry out repairs to ensure that the W.C. pan, cistern and associated fittings are properly secured.**
- 2. The landlord is to carry out repairs to the living room window to ensure that it operates effectively.**
- 3. The landlord is to carry out repairs to ensure that the bedroom radiator is operating properly with a consistent heat through its full height.**

**The landlord is required to carry out the work within twenty one days of intimation of the repairing standard enforcement order.**

The decision of the Committee was unanimous.

#### **Note**

The landlord's attention is drawn to the fact the existing method of detection of fire does not comply with current guidelines. The landlord is referred to the 2013 edition of the Technical Handbook- Domestic issued by Scottish Building Standards 2013. This states that at least one smoke alarm should be installed in the principal habitable room, at least one smoke alarm in every circulation space such as hallways and landings and at least one heat alarm in every kitchen. The Committee recommends that the landlord takes steps to ensure that the Property complies with current guidelines.

#### **Right of Appeal**

**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**

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.

**Martin McAllister**

Signed ..  
Martin J.  
Chairperson

.8<sup>th</sup> April 2015