

## **Repairing Standard Enforcement Order**

### **Ordered by the Private Rented Housing Committee**

**ref: PRHP/E49/99/10**

**Re: Property at 32 Mill Road, Linlithgow, West Lothian ("the Property")**

**Sasine Reference: Property at Thirty-two Mill Road, Linlithgow, West Lothian EH49 7QW being the cottage dwellinghouse known as Linkland Cottage, Thirty-two Mill Road, Linlithgow Bridge, Linlithgow registered in the Land Register of Scotland under Title number WLN 13498**

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

**Kenneth Ian Ritchie per his agents The Key Place Estate Agents, 19 Main Street, Bo'ness ("the Landlord")**

**Mr. Brian Ritchie, 107 New Street, Musselburgh, East Lothian EH21 6DG ("the former Tenant")**

**NOTICE TO Kenneth Ian Ritchie per his agents The Key Place Estate Agents, 19 Main Street, Bo'ness ("the Landlord")**

Whereas in terms of their decision dated 13th September 2010, 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 in proper working order - Section 13(1)(b) 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:-

- (1) To carry out such works as are necessary to repair the roof copings and flashings at the eastern gable end of the property to ensure there is no water ingress.

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 Twentieth day of September, Two Thousand and Ten before Murdoch McCamley, Chartered Accountant, Osborne House, Osborne Terrace, Edinburgh.

M McCamley

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## **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/E49/99/10**

**Re: Property at 32 Mill Road, Linlithgow, West Lothian ("the Property")**

**Sasine Reference: Property at Thirty-two Mill Road, Linlithgow, West Lothian EH49 7QW being the cottage dwellinghouse known as Linkland Cottage, Thirty-two Mill Road, Linlithgow Bridge, Linlithgow registered in the Land Register of Scotland under Title number WLN 13498**

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

**Kenneth Ian Ritchie per his agents The Key Place Estate Agents, 19 Main Street, Bo'ness ("the Landlord")**

**Mr. Brian Ritchie, 107 New Street, Musselburgh, East Lothian EH21 6DG ("the former 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 2006 Act in relation to the property concerned, and taking account of the evidence led by the Landlord 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 14th July 2010 the Tenant applied to the Private Rented Housing Panel for a determination of 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 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) There is penetrating dampness in the living room and kitchen as a result of defects in the roof at the gable end.
  - (b) There is rising dampness in the wall between the living room and the kitchen.
  - (c) The gas fire in the living room has failed its gas safety check.
  - (d) The gas boiler cuts out at regular intervals and is defective.
3. The Private Rented Housing Panel served Notice of Referral dated the 21st July 2010 under and in terms of Schedule 2, Paragraph 1 of the Act on both the Landlord and the Tenant.
4. The Tenant left the property on 9th July 2010 and did not renew the tenancy. The tenancy has been lawfully terminated and accordingly the Tenant's application to the Committee is deemed to have been withdrawn in terms of Schedule 2, Paragraph 7 of the Act. Having considered the written evidence, the Committee continued to determine the application in the public interest and in the interest of public safety given the nature of the alleged statutory breaches.
5. The Committee inspected the property on the morning of the 13th September 2010. The Committee comprised Mrs. Anne McCamley, Chairman, Mr. Ian Mowatt, Surveyor and Mrs. Christine Anderson, Housing Member. The Landlord's agents Louise Trotter and Robert Young from The Key Place Letting Agents were in attendance.
6. Following the inspection the Committee held a Hearing at the Bonsyde House Hotel, Linlithgow and heard from both the former Tenant and the Landlord's agent.

7. At the outset of the Hearing the Committee declared itself satisfied that there was no breach of the repairing standard in respect of the gas fire, the gas boiler or the rising damp complained of at the internal wall between the living room and the kitchen. The Committee asked the Landlord to address the issue of the water ingress from the gable end of the roof.
8. Mrs. Trotter explained temporary repairs had been made in January of 2010. The coping stones had been covered with felt but a more permanent repair was proposed. The felting appeared to have provided some temporary solution.
9. As Mr. Ritchie the former Tenant was deemed to have withdrawn his application to the Committee he did not make a statement however he was able to answer questions posed by Committee members.

### **Findings of Fact**

10. Having inspected the property, 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) Gas safety certificates were provided to the Committee. We saw from the certificates that a new gas fire had been provided in the living room and this fire had passed its safety check. The gas boiler was certified to be in working order and fit for purpose.
  - (b) A damp meter was applied to the internal wall between the kitchen and living room. There is evidence of dampness in this wall however the Committee heard damp proofing had been installed along the wall on the 29th June 2010 by a reputable tradesman. Exercising our professional skill and judgement and taking account of the comments from our Surveyor Member we are satisfied that on balance this problem will resolve once the wall has had a chance to dry.

(c) A damp meter was applied to the external wall in the kitchen and living room. Dampness readings were high. The water penetration in this area is coming from the roof. A temporary repair to the roof was effected in January 2010. There is evidence of continuing dampness after a lengthy period during which we would have expected the wall to dry. Accordingly we are not satisfied this temporary repair has alleviated the problem of water ingress and we find the Landlord is in breach of the repairing standard Section 13(1)(b) insofar as we are not satisfied that the structure and exterior of the house (at that gable wall) are in a reasonable state of repair.

### **Decision**

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

### **Right of Appeal**

14. **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**

15. 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**

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