



Repairing Standard Enforcement Order

**Ordered by the Private Rented Housing Committee
prhp/RP/14/088**

Re 12 Kilndale Terrace, Kirkudbright, DG6 4BX being the subjects registered in the Land Register of Scotland under title number KRK9350 ('the Property')

The Parties:-

Miss Eileen Wright residing at 12 Kilndale Terrace, Kirkudbright, DG6 4BX ('The Tenant')

Ms Debbie Mathieson residing at 22 Erconwald Street, London, W12 0BS ('The Landlord')

NOTICE TO

Debbie Mathieson

Whereas in terms of their decision dated 27th June 2014, 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 house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order, 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 and fixtures, fittings and appliances provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed.

The Private Rented Housing Committee now requires the Landlord to carry out such work as is 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 following:

1. The landlord has to obtain a gas safety certificate and exhibit a copy to the Private Rented Housing Panel.
2. The landlord is to ensure that all internal doors close properly.
3. The landlord is to carry out all necessary work to ensure that the bathroom door can be easily locked and unlocked.
4. The garden shed is to be brought to a reasonable standard taking into account its age and its character so that it can be used for the purpose for which it was intended.

The Private Rented Housing Committee order that these works must be carried out and completed within twenty eight days of the date of service.

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.

Signed..... **Martin McAllister** Date 27 June 2014 *MARTIN McALLISTER, CHAIRPERSON*
Chairperson,,

Sharon Harveywitness: Sharon Harvey 51 Hamilton Street, Saltcoats



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/14/0088

Re 12 Kilndale Terrace, Kirkcubright, DG6 4BX being the subjects registered in the Land Register of Scotland under title number KRK9350 ('the Property')

The Parties:-

Miss Eileen Wright residing at 12 Kilndale Terrace, Kirkcubright, DG6 4BX ('The Tenant')

Ms Debbie Mathieson residing at 22 Erconwald Street, London, W12 0BS ('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 ("the 2006 Act") in relation to the Property, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the 2006 Act and made a repairing standard enforcement order in terms of Section 24(2) of the said Act.

Background

1. By application dated 26th February 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 2006 Act.
2. The application by the Tenant stated that she considered that the Landlord has failed to comply with her duty to ensure that the Property meets the repairing standard. She contended that the Property is not wind and watertight and in all respects reasonably fit for human habitation; 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 the installations in the Property 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 the fixtures, fittings and appliances provided 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 boiler and heating system is not working properly.
 - 2.2 Windows and doors are not properly sealed causing draughts.
 - 2.3 The shed is leaking and requires to be repaired.
 - 2.4 The path requires to be repaired.

- 2.5 The coal bunker cannot be used.
- 2.6 Poor hot water pressure.
- 2.7 Shower not working
- 2.8 Bathroom door warped and other doors not able to be closed.
- 2.9 Flooring warped.
- 2.10 Pipe at rear of house needing repaired.
- 2.11 Bath not draining away properly.

- 3. The President of the Private Rented Housing Panel, having considered the application, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee. The Committee members were Martin McAllister (Chairperson), Carol Jones (Surveyor Member) and Ahsan Khan (Housing Member).
- 4. The Private Rented Housing Committee 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 16th April 2014.
- 5. The Committee attended at the Property on 24th June for an inspection. The tenant was present and Mr David Mathieson, the Landlord's representative was present. The committee noted that the Property is a two storey semi detached former local authority house built around the 1920s and situated in a quiet residential area. It is located in the town of Kirkcudbright. The Property is of traditional construction and the accommodation comprises a living room, kitchen and bathroom on the ground floor and three bedrooms on the upper floor. There are gardens to the front, rear and side of the Property. The committee found the following:-

6.1 The Property is not wind and watertight and in all respects reasonably fit for human habitation.

The committee noted that the windows are relatively new and could find no evidence of draughts from the external doors or the windows. There was no evidence of water ingress.

6.2 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.

The committee noted that a pipe at the rear of the house had been repaired. The bathroom door can be closed but it does not fit properly and, as a consequence, there are potential issues for locking and unlocking it effectively. The three bedroom doors upstairs could not be closed because of warping. Individual lengths of laminate flooring in the kitchen were out of place and could be moved. The bathroom floor showed evidence of some slight deterioration and unevenness in the vinyl sections. It was noted that an area between the rear path and the lawn was soil rather than grass and that a retaining structure of wood had been installed between the soil and the path.

6.3 The 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.

The boiler is heating the water and the tenant advised that the shower which is heated by the combination boiler is functioning. The bath tap was operated and the water drained away slowly. The tenant has not operated the heating system since it had been repaired in April and it is not known if it is faulty. The hot tap was operated and the committee considered that its flow was reasonable.

6.4 The fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order.

It was noted that the coal bunker has a new lid.

There is a wooden garden shed at the rear of the garden. There are gaps in the wall and evidence of significant water ingress.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Community Centre, Cotton Street, Castle Douglas, DG7 1AJ

The tenant and Mr David Mathieson were present. The chairman suggested that each specific issue be examined in turn and that the tenant and Mr Mathieson be given the opportunity to make representations on each issue before the committee moved on to considering the next issue. This was acceptable to parties. The tenant helpfully confirmed that some matters had been resolved satisfactorily. She said that the windows had been sealed and that the coal bunker can now be used. The tenant also confirmed that the pipe at the rear of the house had been repaired. The tenant stated that the shower has worked since the boiler repair which had been carried out in April.

8. Summary of the issues

Sections 13(1)(a),(c) and (d) of The Housing (Scotland) Act 2006 provide that the Property must be wind and watertight and in all respects reasonably fit for human habitation, 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, 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 and 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 specific issues to be addressed are:

1.1. The boiler and heating system:

The tenant had submitted a gas safety certificate with her application. This is dated 1st June 2013 and it was pointed out to Mr Mathieson that this was now out of date. He said that he thought the engineer had made a mistake in the date and that it should have been 1st July 2013. The tenant said that the heating system and the shower had not been working properly and that a heating engineer had carried out a repair in April 2014. The tenant said that the shower has worked since April but that she has not used the heating system since then. Mr Mathieson said that the heating engineer had carried out extensive work in April including the replacement of the heat exchange unit in the boiler.

8.2 The windows and doors:

The tenant and Mr Mathieson confirmed that, subsequent to the application being lodged, work had been done to seal the windows and the tenant said that she was not aware of any draughts but she stated that it is summer and she did not know what they would be like in winter. Neither the tenant nor the landlord's representative made any comment on the external doors.

8.3 The shed:

The tenant said that shed leaks badly and that she was unable to store tools in it. She said that she is an electrician and that one of the reasons she took the tenancy was because of the existence of the shed and that she wanted to use it to store her tools. She said that the leaks were so bad she could not keep bikes in the shed and that garden tools she had stored were adversely affected by the water ingress. Mr Mathieson said that he had taken legal advice and had been told that the shed did not form part of the tenancy and did not require to be repaired. He said that the tenant had asked for it to be repaired but that "he was digging his heels in."

1.4. The path:

The tenant said that when she moved into the property there were slabs which had been placed on the slope between the path and the lawn. She said that she had not put the slabs there and that she had complained to the landlord because she had tripped on them. She said that she had received a letter from the landlord's solicitors with regard to access to deal with the path and had ignored the letter. She said that she had come home one day to find

that someone had been at the property in her absence and had removed the slabs and installed a wooden retaining boundary. Mr Mathieson said that the slabs had been put on top of soil/ grass and that he had removed the slabs, installed the wooden retaining boundary and put topsoil in the area between the path and the lawn. He said that what he had done was reinstate the size of the path to what it had been. The tenant said that she wanted the path/lawn returned to what it had been.

1.5. The coal bunker:

The tenant confirmed that this had been repaired and could now be used.

1.6. Poor water pressure:

The tenant advised that it takes a long time to fill a bath and stated that she never took a bath and used the shower instead.

1.7. Shower:

The tenant said that the shower is working.

8.8 Bathroom door and other doors:

The tenant said that, although the bathroom door closes, it does not properly engage with the keep. She said that a child had got trapped in the bathroom because the door is ill fitting. The tenant said that the door locks but that it needed to be pulled before it can be unlocked. The tenant said that the doors on the first floor of the house could not close and she was concerned because she considered that, for fire safety, doors should close so that the spread of any fire could be delayed. Mr Mathieson said that if it was considered that doors had to be repaired he would not do the work himself and would employ a joiner.

8.9 Flooring:

The tenant said that she was worried that, at the end of the tenancy, she would be blamed for the condition of the floors in the kitchen and the bathroom. The tenant said that she considered the floors in an acceptable state.

8.10 Pipe:

The tenant accepted that the pipe had been repaired.

1.9. Bath not draining away quickly:

The tenant said that the bath took some time to drain and when showers were being taken water gathered at the bottom of the bath, She could not say how long the bath would take to drain.

8. Findings in fact

The Committee found

8.1 There is not a current gas safety certificate.

8.2 The shower is working.

8.3 The windows are draught proof.

8.4 The shed is not fit for its purpose: a garden shed for storage of garden tools and suchlike.

8.5 The path is in an acceptable condition

8.6 The coal bunker is fit for purpose.

8.7 The water pressure is adequate.

8.8 The shower is working.

8.9 The bathroom door requires to be repaired so that it can be easily locked and unlocked.

8.10 The three internal upstairs doors require to be repaired so that they close properly.

8.11 The flooring in the bathroom and kitchen is acceptable

8.12 The pipe at the rear of the property has been repaired.

8.13 The bath drains in an acceptable manner.

9. Reasons

9.1 The gas safety certificate produced is dated 1st June 2013

9.2 The tenant accepts that the shower is working.

9.3 The tenant stated that there are no draughts from the windows.

9.4 The garden shed, upon inspection, showed evidence of water ingress and it was noted that there were gaps in the walls. The committee did not consider that it was reasonable for the garden shed to be fit for the storage of electrician's tools which would be expensive but it did consider that it is reasonable that the shed be in a condition where it was possible to store the normal things that are kept in garden sheds. The committee considered the position advanced by the landlord's representative that the shed did not form part of the tenancy. The committee considered that the shed was supplied by the landlord at the commencement of the tenancy and was therefore covered by section 13 (1) (d) of the 2006 Act. It did however consider that the landlord's obligation was to maintain the shed to a reasonable standard and not to the same level as she would require to maintain the dwellinghouse.

9.5 The tenant accepted that she had tripped over the slabs placed on the soil/grass and had complained to the landlord. The committee considered that the landlord's solution in removing the slabs and reinstating the width of the path to what it had been was reasonable.

9.6 It is accepted by the tenant that the coal bunker has been repaired.

9.7 The committee observed that the flow of water from the bath tap was slow but considered that it was tolerable.

9.8 The tenant said that the shower is operational.

9.9 Although the bathroom door closes the committee accepted what the tenant stated about a child being unable to unlock it. The committee noted on inspection that the door did not fit well.

9.10 The landlord's representative accepted that the doors on the upper floor did not close. The committee noted this at the inspection. The members of the committee considered that it was reasonable for the tenant to expect that doors closed. Occupiers of the house are entitled to privacy and the committee also noted the tenant's concerns about fire.

9.11 The tenant's major concern with regard to flooring was that she might be held liable for any defects at the end of the lease. She said that the flooring is acceptable and the committee observed at the inspection that some of the laminate panels in the kitchen moved slightly and that there was some slight deterioration and unevenness in the vinyl tiles on the bathroom floor. The committee did not consider these to be serious defects.

9.12 It was accepted by the tenant that the pipe had been repaired and this was noted at the inspection.

9.13 The members of the committee noted that the bath drained but that it drained slower than might be expected. They considered that the level of flow was within acceptable limits.

The committee considered whether or not any defects it found established brought the Property below the repairing standard in terms of the 2006 Act. There were three issues that were of concern. The absence of a gas safety certificate is serious. The condition of the internal doors was considered to be below the repairing standard. The committee considered that the garden shed should be brought to a reasonable standard having regard to its age and the character of the structure.

In respect of these matters the committee considered that a repairing standard enforcement order should be made.

Decision

The Committee accordingly determined that the Landlord has failed to comply with the duties imposed by Section 14(1)(b), of the Act, as stated.

10. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) and 24(2) of the Act.

11. The decision of the Committee was unanimous.

Right of Appeal

12. 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

13. 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 ...
Chairpers,

Date **ZFA** June 2014