



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

93B Glasgow Street, Ardrossan, KA22 8ER being the subjects registered in the Land Register of Scotland under Title Number AYR50256 ('the Property')

The Parties:-

Mrs Maureen Hughes residing at 93B Glasgow Street, Ardrossan, KA22 8ER ('The Tenant')

Christopher Redhead per M and M Letting Agents, 2 School Wynd, Kilbirnie, KA25 7AY ('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 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 Act.

Background

1. By application dated 3rd July 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 Act.
2. The application the Tenant stated that she considered that the Landlord has failed to comply with his duty to ensure that the Property meets the repairing standard. She advised 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.

In addition the application stated that:

- 2.1 The heating isn't working properly. Some radiators work and others don't. New underfloor pipes are required.
- 2.2 Floorboards are required on the top landing.
- 2.3 Plaster is required above the window in the bedroom.
- 2.4 A kitchen socket is required.
- 2.5 One living room window will not open.
- 2.6 A bit of the living room wall needs to be repaired.

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 Jacqui Taylor (Chairperson), George Campbell (Surveyor Member) and Jim Riach (Housing Member).
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant, dated 22nd July 2014.

5. Following service of the Notices of Referral the parties submitted the following written representations:

5.1 A letter from the Tenant's representative Louise Haswell, the Advice and Information Officer of Community Housing Advocacy Project dated 18th August 2014 which advised *inter alia*:

'She is representing the Tenant. She explained that since the new boiler and radiators were installed in February the central heating system has not been working properly. Mr Hughes advised that heating in certain rooms worked only when turned on in other rooms; for example the heating in the bedroom works if the radiator in the bathroom is on.

When the Landlord's agents attended the Property to investigate the issue he was told that the problem was not the boiler or the radiators but pipes connecting them and to resolve this issue he would need to take up the floor boards and investigate the problem, which would require the owner's permission.'

5.2 The Landlord's agent sent the PRHP offices a report from ID Plumbing and Heating dated 6th March 2014 by email dated 28th August 2014.

The report stated *inter alia*:

'On commissioning of the system it was found that the radiator pipework has been installed in a single loop series causing the following on operation:

When one valve is turned off or shuts due to temperature on the ground floor then all the radiators on that level will go off, this is the same if one is turned off on the first floor then all on the first floor will go off.

The Tenant has been advised to leave valves open at present to allow heating to operate throughout the Property.

If this is done then the heating system will run until reaching the set temperature on the programmable thermostat and then shut off.

At present the Tenant has hot water and heating both operating within the Property.

To allow full operation of the radiator controls the system will need to be re-piped to individual feed and return pipes so that any radiator can be isolated without affecting any other in the Property.

This in no way causes any breach in the gas regulations to prevent issue of the gas safety certificate but would be recommended to allow proper control of the system.'

6. The Committee attended at the Property on 18th September 2014. The Tenant and her husband were present. The Landlord's representative Mrs Susan Mackie of M and M letting Agents was also present.

The chairperson of the Committee advised the parties that she knew Mrs Susan Mackie, the Landlord's representative, as her daughter knew Mrs Mackie's daughter but the chairperson explained that she did not consider that there was a conflict of interest.

The Committee inspected the alleged defects and found as follows:-

6.1 The heating isn't working properly. Some radiators work and others don't. New underfloor pipes are required.

The parties explained that a new combination boiler had been installed in February 2014. The central heating system was very unusual as the pipework had been installed in a single loop. The Tenant explained that when one valve is turned off on the ground floor all of the radiators on the ground floor turn off. Also when one valve is turned off on the upper floor all of the radiators on the upper floor are also turned off.

6.2 Floorboards are required on the top landing.

The floor boards on the top landing were loose and uneven.

6.3 Plaster is required above the window in the bedroom.

An area of plaster above the bedroom window was exposed. The surveyor member of the Committee tested the plaster with the damp meter and confirmed that the plaster was dry.

6.4 A kitchen socket is required.

The loose kitchen socket had recently been made secure by the Landlord's agents' contractor. He had applied polyfilla to secure the socket in position. The polyfilla had been roughly applied and the finish was very uneven.

6.5 One living room window will not open.

The Tenant confirmed that the window had been repaired.

6.6 A bit of the living room wall needs to be repaired.

A small triangular shaped section of plaster located behind the radiator in the living room had come loose.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Michael Lynch Centre for Enterprise, 71 Princes Street, Ardrossan, KA22 8DG. The Tenant's husband attended the Hearing also Mrs Mackie, the Landlord's representative and Iain Dingwall the Landlord's central heating engineer attended the hearing.

In relation to the matters detailed in the Tenant's application the parties advised as follows:

7.1 The heating isn't working properly. Some radiators work and others don't. New underfloor pipes are required.

Mr Hughes explained that due to the way the central heating system has been installed it is not possible to simply turn off one radiator. Iain Dingwall, the Landlord's central heating engineer, explained that the heating system is operating. He emphasised that there is no legal requirement at present for energy efficiency measures to be in place. He explained that to make it possible for one radiator to be turned off independently of the others it would be necessary for the whole system to be re-piped.

7.2 Floorboards are required on the top landing.

Mr Hughes explained that the floorboard on the top landing needs to be repaired.

7.3 Plaster is required above the window in the bedroom.

Mr Hughes advised that he wished to withdraw this item from the application.

7.4 A kitchen socket is required.

Mr Hughes explained that the Landlord's contractor had made the electrical socket secure by applying polyfilla. However the repair was very poor and uneven.

7.5 One living room window will not open.

Mr Hughes advised that he wished to withdraw this item from the application as the window had been repaired.

7.6 A bit of the living room wall needs to be repaired.

Mr Hughes explained that a section of plaster to the wall behind the radiator in the living room needs to be repaired.

Summary of the issues

Therefore the issues to be determined are:-

8.1 The structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

Whether the condition of the floorboards, the plasterwork in the bedroom, the plasterwork in the living room and the polyfilla around the socket in the kitchen results in the Property not being in a reasonable state of repair and proper working order.

8.2 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 proper working order (Section 13(1)(c) of The Housing (Scotland) Act 2006).

Whether the central heating system is in a reasonable state of repair and proper working order.

Findings of fact

9.1 The structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

The Committee found that plasterwork in the bedroom was dry and consequently it is not in an unreasonable state of repair and proper working order.

The Committee acknowledged that the Tenant's application, in respect of the kitchen socket, simply stated that a kitchen socket was required. The kitchen socket had been installed however the polyfilla around the socket in the kitchen had been poorly finished and was uneven. They found that as the state of the polyfilla was not part of the Tenant's application they could not make any order regarding this however they would encourage the Landlord to have the repair finished properly.

In relation to the floorboards they found that the floorboards were not secure and were uneven also the plasterwork in the living room was defective and these defects does result in the Property not being in a reasonable state of repair and proper working order.

9.2 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 proper working order (Section 13(1)(c) of The Housing (Scotland) Act 2006).

The surveyor member of the Committee had never before seen a central heating system similar to the system in the Property. The very unusual central heating system prevented the normal operation of the system. The Committee accepted that the central heating system worked but they found that it did not work properly. Proper operation of the central heating system would enable one radiator to be turned off without disturbing the operation of the remainder of the system. The Committee therefore found that the central heating system was not in a reasonable state of repair and proper working order.

Decision

- 10. The Committee accordingly determined that the Landlord has failed to comply with the duties imposed by Sections 13 (1)(b) and (c) also section 14 of the Act, as stated.
- 11. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
- 12. The decision of the Committee was unanimous.

Right of Appeal

- 13. 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

- 14. 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 **J Taylor** Date 22nd September 2014
Chairperson



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

93B Glasgow Street, Ardrossan, KA22 8ER being the subjects registered in the Land Register of Scotland under Title Number AYR50256 ('the Property')

The Parties:-

Mrs Maureen Hughes residing at 93B Glasgow Street, Ardrossan, KA22 8ER ('The Tenant')

Christopher Redhead per M and M Letting Agents, 2 School Wynd, Kilbirnie, KA25 7AY ('The Landlord')

NOTICE TO

Christopher Redhead per M and M Letting Agents, 2 School Wynd, Kilbirnie, KA25 7AY

Whereas in terms of their decision dated 22nd September 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 the Landlord has failed to ensure that the structure and exterior of the property are in a reasonable state of repair and proper working order and that the 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 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 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 Landlord to:-

1. Repair the central heating system to render it in proper working order such that the radiators can be operated independently.
2. Repair or replace the loose floorboard on the top landing.
3. Repair the defective plasterwork in the living room.

The Private Rented Housing Committee order that these works must be carried out and completed By 30th NOVEMBER 2014.

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..... **J Taylor** Date 22nd September 2014
JACQUELINE TAYLOR, Chairperson

✓ K Byrne Witness: KEIRSTEN BYRNE, 65, High Street, Irvine