



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/IV13/6/13

Re: Property at Coalhaugh, 1 Station Road, Tomatin, Inverness, IV13 7YR ("the Property")

Sasine description: ALL and WHOLE the subjects described in Disposition by Brian Cottam and Sheila Austen Young or Cottam, Spouses in favour of Janet Ann Sutherland or Crummy recorded GRS (Inverness) 29 August 1984

The Parties:-

MRS JANET CRUMMY c/o Scottish Highland Property Services, 11 Queensgate, Inverness, IV1 1DF ("the Landlords")

GAVIN TETLEY and REBECCA HARRISON residing at Coalhaugh, 1 Station Road, Tomatin, Inverness, IV13 7YR ("the Tenants")

### NOTICE TO MRS JANET CRUMMY ("the Landlord")

Whereas in terms of their decision dated 7 June 2013, 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:-

- (a) 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 in proper working order;
- (b) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
- (c) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire;
- (d) The structure of and exterior of the Property (including drains, gutters and external pipes) 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 landlord:-

- (a) To carry out such works of repair or replacement as are necessary to fix the broken stair tread and the hole in the floor in the bedroom above the said staircase.
- (b) To produce an Electrical Installation Condition Report from a suitably qualified electrician confirming that the electrical installations within the Property are in proper working order and comply with the relevant regulations.
- (c) To carry out such works of repair or replacement as are necessary to ensure that the Rayburn in the Property is in proper working order.
- (d) To install sufficient smoke alarms that are mains wired and interlinked and otherwise comply with the requirements of the relevant fire legislation.

The/

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 6 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 type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 7 June 2013 before this witness:-

**L Johnston**

\_\_\_\_\_ witness

**E Miller**

\_\_\_\_\_ Chairman

Lindsay Johnston  
Secretary  
Thorntons Law LLP  
Whitehall House  
33 Yeaman Shore  
Dundee  
DD1 4BJ



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

prhp Ref: PRHP/IV13/6/13

Re: Property at Coalhaugh, 1 Station Road, Tomatin, Inverness, IV13 7YR  
("the Property")

**The Parties:-**

**GAVIN TETLEY and REBECCA HARRISON** residing at Coalhaugh, 1 Station Road,  
Tomatin, Inverness, IV13 7YR ("the Tenants")

**MRS JANET CRUMMY** c/o Scottish Highland Property Services, 11 Queensgate,  
Inverness, IV1 1DF ("the Landlords")

**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) in relation to the house concerned, and taking account of the evidence led by both the Landlords and the Tenants at the hearing, determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

**Background**

1. By application dated 20 December 2012 the Tenants applied to the Private Rented Housing Panel for a determination of whether the Landlords 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 Tenants stated that the Tenants considered that the Landlords had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlords had failed to ensure that:-
  - (a) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
  - (b) 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 in proper working order;
  - (c) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
  - (d) Any furnishings provided by the Landlords under the tenancy are capable of being used safely for the purpose for which they are designed;
  - (e) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. By letter dated 12 February 2013 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.

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 Landlords and the Tenants.
5. Following service of the Notice of Referral the Tenants made no further written representation to the Committee other than their original application. The Landlords by letter dated 22 February 2013 made written representations to the Committee.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member; Mr A Anderson, Surveyor Member; and Mr M Scott, Housing Member accompanied by the Clerk Mr G Thomson) inspected the Property on the morning of 26 March 2013. The Tenants and the Landlords' agents (Ewen Smith and Liz McKinness of Scottish Highland Property Centre) were present during the inspection. The Landlord was not present
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Spectrum Centre, Inverness and heard from both the Tenants and the Landlords' agent. The Tenants represented themselves. The Landlords were represented by their agent.
8. The Tenants submitted that they had been very disappointed with their tenancy of the Property. They felt that there had been several defects in the Property when they took it over and that it had taken a good deal of time to have these issues rectified. They also felt there were outstanding issues in relation to such things as electrical and fire safety. In particular the Rayburn had caught fire whilst the Tenants' elderly parents had been in the Property. This could have had serious consequences.
9. The Landlords submitted that they were aware that they needed to get an Electrical Installation Condition Report but had difficulties arranging access with the Tenants (although the Tenants denied this). They accepted that certain works were required to bring the Property up to standard.

#### **Summary of the issues**

10. The issues to be determined were:-
  - a. Whether there was a broken stair tread on the stair and a hole in the bedroom floor at the top of the same staircase.
  - b. Whether the gas appliances at the Property were in proper working order and met the repairing standard.
  - c. Whether the Rayburn at the Property was in proper working order and met the repairing standard.
  - d. Whether the electrical installations within the Property were safe and in proper working order, compliant with the relevant regulations.
  - e. Whether the settees in the Property were compliant with the relevant Fire & Furnishings (Fire) (Safety) Regulations 1988 as amended.
  - f. Whether the smoke alarms in the Property were adequate and met the repairing standard.

#### **Findings of fact**

11. The Committee found the following facts to be established:-

- a. There was a broken stair tread on the stairs that required to be repaired or replaced to meet the repairing standard. There was also a hole in the floor to the bedroom above the staircase that did not meet the repairing standard.
- b. The Committee were satisfied that the gas supply and appliances at the Property met the repairing standard.
- c. The Rayburn at the Property was not in proper working order and did not meet the repairing standard.
- d. The settees at the Property did comply with the relevant Fire & Furnishings (Fire) (Safety) Regulations 1988 as amended.
- e. The smoke alarms at the Property did not meet the relevant regulations and was a breach of the repairing standard.

### **Reasons for the decision**

12. The Committee based its decision primarily on the evidence obtained during the course of its inspection of the Property.

The Committee first inspected the staircase and bedroom above. It was readily apparent that there was a broken stair tread on the staircase. This was a relatively narrow staircase and accordingly the broken stair tread represented a safety hazard. Accordingly the stair tread would require to be repaired or replaced in order to meet the repairing standard.

In relation to the bedroom above the staircase there was a large hole in the floor beneath the carpet. The floorboards would therefore require to be repaired or replaced in order to comply with the repairing standard. The Landlords agent advised that she had noticed this was "soft" on a previous visit but not to the extent that was apparent on the day of the inspection. The Committee was satisfied that this was the responsibility of the Landlord to repair.

The Committee inspected the boiler at the Property. This appeared to be in working order (from a visual inspection only). The Landlords produced a Gas Safety Certificate arising from an inspection carried out just after the commencement of the tenancy. The Tenants were of the view that this had not been done correctly as they did not think the Gas Engineer had carried out the appropriate checks to allow the issue the Certificate. After discussion, and examination of the documentation, the Committee was satisfied that the Gas Safety Certificate was in order and that compliance in this regard had been achieved by the Landlords.

The Committee then considered the position in relation to the Rayburn. It was apparent from a visual inspection of the Rayburn that it had indeed caught fire at some point in the past. It appeared to be the case that this had occurred as a result of the fire bricks being removed from the Rayburn. The Landlords accepted that they had not realised that this had been the case and accepted that the Rayburn was not working. Accordingly the Committee felt that they had no option but to include the repair of the Rayburn within the ambit of the Repairing Standard Enforcement Order given the tenancy was currently still ongoing.

Notwithstanding a direction that had been issued by the President of the Panel, no Electrical Installation Condition Report had been received. The Committee were of the view that this was necessary. The Committee noted, for example, that there were wires hanging down from the ceiling in the small room above the kitchen. Accordingly it would be appropriate to obtain an Electrical Installation Condition Report from a suitably qualified electrician confirming compliance with the relevant regulations.

The Committee inspected the two settees that the Tenants complained did not comply with the relevant Fire Regulations. The Tenants had been unable to locate the necessary certification on the settees. The Committee did manage to locate this and the Tenants accepted during the course of the Hearing that this aspect of the complaint was now irrelevant.

Lastly, the Committee looked at the smoke alarms within the Property. There were two battery powered smoke alarms and one mains wired smoke alarm. It was clear that this was a breach of the repairing standard as this did not comply with the relevant Fire Regulations. The one smoke alarm that could be reached by the Committee failed to sound when tested. The Property comprised an odd layout with three separate staircases leading to upstairs accommodation. None of the upstairs accommodation was interlinked however. As a result the Committee was of the view that several more smoke alarms would be required for compliance with the repairing standard and the relevant Fire Regulations. As always, these would need to be mains wired and interlinked. The Landlords would require to have these installed by a suitably qualified professional in compliance with the current relevant Regulations.

The Committee considered how long the works would take and was of the view that 6 weeks would be sufficient for the Landlords to carry these works out.

#### **Decision**

13. The Committee accordingly determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
14. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
15. The decision of the Committee was unanimous.

#### **Right of Appeal**

16. **A Landlords or Tenants 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**

17. 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 **E Miller** Date **7/6/2013**  
Chairperson