



## **Repairing Standard Enforcement Order**

**Ordered by the Private Rented Housing Committee**

**prhp ref: RP/15/0332**

**Re 2 Afton Place, Ardrossan, KA227JD being the subjects  
registered in the Land Register of Scotland under title number AYR  
25741 ('the Property')**

### **The Parties:-**

**Mr Jamie McFarlane, residing at the Property ("The Tenant")**

**Mr John Stevenson, residing at 9 Auchenharvie Road, Saltcoats  
("The Landlord")**

### **NOTICE TO**

**Mr John Stevenson**

Whereas in terms of their decision dated 18<sup>th</sup> March 2016, 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, in terms of Section 13 of the said Act to ensure that the house is wind and watertight and in all other respects reasonably fit for human habitation, 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, that any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order and that the Property has satisfactory provisions for detecting fires and giving warning in the event of a fire or suspected fire and giving warning if carbon monoxide is present in a concentration that is hazardous to health

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 in terms of Section 13 of the said Act 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:

**(One) The Landlord is to repair or replace windows throughout the Property to ensure they are draught free and to eliminate internal condensation within the window units. The Landlord is required to produce a report from a suitably qualified window installer confirming that the windows are fit for purpose.  
(Section 13 (1) (a) of the 2006 Act)**

**(Two) The Landlord is required to produce a report from a suitably qualified heating engineer confirming that the boiler and associated central heating system is in proper working order to provide effective heating throughout the Property.  
(Section 13 (1) (c) of the 2006 Act)**

**(Three) The Landlord is required to repair the wall mounted kitchen cupboard and ensure that it is properly fixed to the wall. (Section 13 (1) (d) of the 2006 Act)  
(Section 13 (1) (d) of the 2006 Act)**

**(Four) The Landlord is to produce an electrical installation condition report prepared by a suitably competent person confirming that the electrical system within the Property is in a safe and efficient condition. This report should confirm that all lights in the property are functioning.  
(Section 13 (1) (c) of the 2006 Act)**

**(Five) The Landlord is to repair or replace the extractor fan in the bathroom.  
(Section 13 (1) (d) of the 2006 Act)**

**(Six) The Landlord is to install a heat detector and a carbon monoxide detector to comply with current regulations.  
(Section 13 (1) (f) and (g) of the 2006 Act)**

**In view of the nature of the failure to meet the Repairing Standard as defined in the 2006 Act, the committee determined that the repairing standard enforcement order requires to be completed within a period of three months from its service on the Landlords.**

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.

M. McAllister

Signed  
Martin J. McAllister  
Chairperson

Date 18<sup>th</sup> March 2016

Paula Sinclair

Street, Saltcoats

.....witness: Paula Sinclair, paralegal, 51 Hamilton



**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/15/0332**

**Re 2 Afton Place, Ardrossan, KA227JD being the subjects registered in the Land Register of Scotland under title number AYR 25741 ('the Property')**

**The Parties:-**

**Mr Jamie McFarlane, residing at the Property ("The Tenant")**

**Mr John Stevenson, residing at 9 Auchenharvie Road, Saltcoats ("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 12th August 2015 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 he considered that the Landlord has failed to comply with his duty to ensure that the Property meets the repairing standard. The application was accompanied by a letter from North Ayrshire Council, the applicable local authority, dated 5th March 2015 which states that the Council considers that the Property fails the Repairing Standard. This letter was written following an inspection by an officer of the Council. The application stated that the windows are in poor condition with condensation in inside of double glazing panels causing draughts, that the boiler is not up to reasonable standard, that the Property is not adequately heated, kitchen units in disrepair and that electricity is not wired correctly.

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 comprises of Martin McAllister (Chairperson) and George Campbell (Surveyor 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 on 25th January 2016.

5. On 3rd February 2016 the Landlord wrote to the Private Rented Housing Panel stating that there had been issues with the Tenant regarding access for repairs to be carried out, that the gas boiler is serviced annually, that damage had been caused by the tenant, and that windows were wind and watertight and were due to be replaced. The Landlord also sent copies of various invoices.

6. The Tenant wrote to the Private Rented Housing Panel on 6th February 2016 stating that he gave authority to Mrs Evelyn McCormick to attend the Hearing and to deal with the application on his behalf.

7. The Committee attended at the Property on 16th March 2016 for an inspection. The Tenant and John Dolan and Nicole Carr from Property Matters (agents of the Landlord) were

present. Evelyn McCormick was there to support the Tenant. The Committee noted that the Property is a semidetached house. Attached to the Decision is a schedule showing internal and external photographs. The Committee found the following:-

## **8. Findings on Inspection**

8.1 The windows throughout the Property were defective. Double glazed units had failed and seals around the opening windows were defective.

8.2 The boiler installed in the kitchen was said to be functioning. The central heating was not on at the time of inspection.

8.3 A wall mounted kitchen cabinet had doors which were not fitting and could not close properly. It was also not fitted flush to the wall.

8.4 The living room had two ceiling lights operated by separate switches. One light was not working. The wall lights in the living room were not functioning. The bathroom had a number of recessed ceiling lights and only one was working. The extractor fan in the bathroom was not functioning. The pull cord for the operation of the shower is situated in the cupboard beneath the stairs.

8.5 The property has two functioning interlinked hard wired smoke detectors. There is no heat detector or carbon monoxide detector.

## **9. The Hearing**

Following the Inspection, a Hearing took place at Ardrossan Civic Centre. The Tenant and Ms McCormick were present and both gave evidence. Mr Dolan and Ms Carr were present and both gave evidence. Ms Tracey McCallum was present and provided evidence. She advised the Committee that she is the partner of John Stevenson, the Landlord. She said that she owns the house with Mr Stevenson. The Committee noted from the Title Sheet of the Property that Mr Stevenson and Ms McCallum have owned the Property since 2000.

## **10. The Issues**

Sections 13(1)(a),(c)(d), (f) and (g) of The Housing (Scotland) Act 2006 ( as amended) provide that the Property must be wind and watertight and in all respects reasonably fit for human habitation, 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, any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order and the Property has satisfactory provisions for detecting fires and giving warning in the event of fire or suspected fire and giving warning if carbon monoxide is present in a concentration that is hazardous to health.

The specific issues which the Committee required to address were those detailed in the application.

The Committee had before it the application and copies of the letter by the local authority. The Committee also had written representations of the Landlord dated 3rd February 2016 and those of the Tenant dated 6th February 2016. The Committee also had a copy of the Landlord's Gas Safety Record dated 9th July 2015 which indicated that the boiler had passed.

## **11. The Evidence**

Both the Tenant and Ms McCormick said that the windows had condensation and Ms McCormick said that when it is windy outside the curtains move because of draughts. The landlord's agents said that one window lock had been repaired and that there had been difficulties getting access to do any other work. Any difficulty with access was not accepted by the Tenant. Ms McCallum said that it is intended to do work to the windows.

Ms Carr drew the Committee's attention to the Gas Safety Certificate. The Tenant said that the pressure in the system drops twice a week and he has to turn the valve which adds more water to the system. The Tenant said that he considers that the boiler is faulty. Ms McCormick said that the central heating system does not heat the house and that the radiators throughout the Property are never hot to the touch and also have parts which are cooler than others. Ms McCormick said that some radiators are cooler at the bottom than the top and that they have been bled without improving their efficiency.

Ms Carr said that an electrician had been at the house and had prepared a report detailing works to be done to bring the system to an acceptable standard. Ms McCallum said that the work which the electrician recommended would be actioned and Ms Carr stated that arrangements would be made for this work. The Tenant said that when the electrician came to the house he had disconnected some sockets because they had not been properly installed. He said that the light switch in the living room which had not worked when tried at

the Inspection sometimes worked when it was operated a few times. The Tenant said that there are issues with the lights in the bathroom.

Ms Carr said that it is intended to install a heat detector and a carbon monoxide detector.

## **12. The Committee's Findings**

12.1 All windows in the house are defective. Many have sealed units which have failed. Some have defective sealing strips around the openings.

12.2 The central heating system is not effective.

12.3 A wall mounted kitchen cupboard has ill fitting doors and is not flush against the wall.

12.4 The electrical system is defective and requires work to bring it up to standard. The extractor fan in the bathroom does not function. One of the ceiling lights and the two wall lights in the living room are not functioning.

12.5 There is no heat or carbon monoxide detector in the Property.

## **13. Reasons**

13.1 The Committee considered the evidence from the Tenant and Ms McCormick with regard to the windows. It accepted the evidence that the windows are draughty. No contrary evidence was led and the Committee observed defects in the windows at the inspection.

13.2 There is a current gas safety certificate but the Committee determined that such a certificate does not mean that the central heating system works efficiently. It accepted the evidence of Ms McCormick and the Tenant that the house is cold and that the radiators do not work properly. No contrary evidence was led.

13.3 The Committee noted at inspection that a wall mounted kitchen cupboard had doors which did not close properly and that it was not fitted flush to the wall.

13.4 At the Inspection the Committee noted issues with the extractor fan, the lights in the bathroom and the lights in the living room. It accepted the evidence of the Tenant with regard to what he had said about the electrician's visit, the light in the living room and the lights in the bathroom. It also accepted that the Landlord's agent and Ms McCallum indicated that work will be done to bring the electrics up to standard.

13.5 Both parties acknowledged that there is neither a heat detector nor a carbon monoxide detector in the Property.



**14.** The Committee considered whether or not any defects it found established brought the Property below the repairing standard in terms of the 2006 Act. In respect of the Findings it had made, the Committee considered that a repairing standard enforcement order should be made because the Property fails to meet the repairing standard.

#### **Decision**

**The Committee determined that the Landlord has failed to comply with the duties imposed by Section 14(1(b), of the 2006 Act, as stated.**

**15.** The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) and 24(2) of the 2006 Act in the following terms:

**(One) The Landlord is to repair or replace windows throughout the Property to ensure they are draught free and to eliminate internal condensation within the window units. The Landlord is required to produce a report from a suitably qualified window installer confirming that the windows are fit for purpose.**

**(Section 13 (1) (a) of the 2006 Act)**

**(Two) The Landlord is required to produce a report from a suitably qualified heating engineer confirming that the boiler and associated central heating system is in proper working order to provide effective heating throughout the Property.**

**(Section 13 (1) (c) of the 2006 Act)**

**(Three) The Landlord is required to repair the wall mounted kitchen cupboard and ensure that it is properly fixed to the wall. (Section 13 (1) (d) of the 2006 Act)**

**(Section 13 (1) (d) of the 2006 Act)**

**(Four) The Landlord is to produce an electrical installation condition report prepared by a suitably competent person confirming that the electrical system within the Property is in a safe and efficient condition. This report should confirm that all lights in the property are functioning.**

**(Section 13 (1) (c) of the 2006 Act)**

**(Five) The Landlord is to repair or replace the extractor fan in the bathroom. (Section 13 (1) (d) of the 2006 Act)**

**(Six) The Landlord is to install a heat detector and a carbon monoxide detector to comply with current regulations.**

**(Section 13 (1) (f) and (g) of the 2006 Act)**

**In view of the nature of the failure to meet the Repairing Standard as defined in the 2006 Act, the committee determined that the repairing standard enforcement order requires to be completed within a period of three months from its service on the Landlords.**

#### **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 of the 2006 Act**

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.

M. McAllister

Signed

Date 18th March 2016

Martin J. McAllister

Chairperson

*Pro/2M*

Photographs taken at 2 Afton Place, Ardrossan KA22 7JD on 16 March 2016



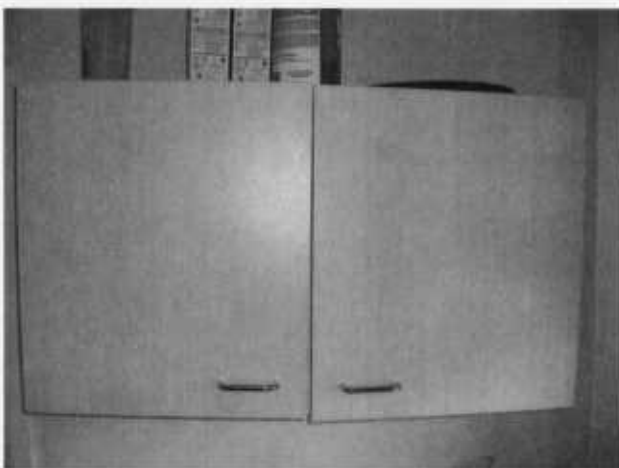
01 - House – front elevation



02- Condensation inside double glazed unit



03- Electrics (under stairs)



04- Wall unit in kitchen (badly fitted doors)



05- Space between top of unit and wall



06 - Combi boiler (in kitchen cupboard)



07 - Damaged rubber sealing strip at window



08 - Condensation inside double glazed unit



09 - Condensation inside double glazed unit