



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

Re: 65 Brown Street, Newmilns, KA16 9AD being the subjects registered in the land register of Scotland under Title number AYR40911 ('the Property')

The Parties:-

Mrs Tamara Campbell residing formerly at 65 Brown Street, Newmilns, KA16 9AD ('The Tenant')

Thomas Rankin residing at 7 Ravenscraig Road, Stewarton, KA3 3AG ('The Landlords')

Case Ref: PRHP/RP/15/0085

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) in relation to the Property, determined that the Landlord has not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 5th March 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 Housing (Scotland) Act 2006 ("the Act").

2. The application by 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 Property was not wind and watertight and in all other respects reasonably fit for human habitation.

In particular the application stated:

*'Damp- front rooms x2
Rotted skylights
Leaking windows
No ventilation on windows
Concrete rendering cracked.'*

3. The Tenant sent an email to the Private Rented Housing Panel Administration dated 16th March 2015 advising that she had vacated the Property on 28th February 2015. The President of the Private Rented Housing Panel, having considered the application, issued a Minute of a Decision made under section 23(1) of the Housing (Scotland) Act 2006 and referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee.

4. The Committee members were Jacqui Taylor (Chairperson), Mike Links (Surveyor Member) and Jim Riach (Housing Member).

5. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlord dated 10th April 2015.

6. The Committee attended at the Property on 15th July 2015. The Property is a semi detached house, extended to the rear. The Property was built circa 1900. The walls are constructed of stone with a roughcast finish. The roof is largely pitched and slated but there are some flat roof sections at the rear. The windows are UPVC double glazed units with the exception of the two velux windows in the kitchen, which have wooden frames.

The Tenant was not present at the inspection. The Landlord was not present but his representative Michelle Queen of 7 Ravenscraig Road, Stewarton, KA3 3AG attended on his behalf.

The Committee inspected the alleged defects and found:

6.1 Damp- front rooms x2.

The surveyor member of the Committee tested the walls of both front rooms with a damp meter. They tested dry, with the exception of a small area of damp in the far corner of the south most room to the front of the Property. Michelle Queen explained that the chimney on the north most side of the Property had been removed in March/ April 2015 and the fireplace had been blocked up.

6.2 Rotted skylights.

There was no evidence of rot or dampness to the skylight frames.

6.3 Leaking windows

The windows throughout the Property were UPVC double glazed windows. There was no evidence of dampness or water ingress. Michelle Queen explained that the windows had been installed in 2012.

6.4 No ventilation on windows.

The majority of the windows in the Property were capable of opening.

6.5 Concrete rendering cracked.

There was no evidence of cracked rendering.

Separately, the Committee noted that there were three smoke alarms in the Property. They were battery operated. The smoke alarm in the hall was working; the smoke alarm near the kitchen was not working and smoke alarm in the upper hall did not have a battery and the Committee were unable to determine if it was working.

Photographs were taken during the inspection and are attached as a Schedule to this report.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Hurlford Community Centre, Cessnock Road, Kilmarnock, Ka1 5DD. The Landlord's representative Michelle Queen was present.

Michelle Queen advised the Committee that the dampness had been repaired and the other alleged defects were unfounded.

The Committee explained that whilst the condition of the smoke alarms in the property was not part of the application they would recommend that a hardwired interlinked smoke alarm system should be installed to comply with the regulations. They advised that they were unable to make an order in relation to the smoke alarms as they were not part of the application. They also explained that the alleged lack of window ventilators was not a breach of the repairing standard.

8. Summary of the issues

The issues to be determined are:-

The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

Whether there was:

- dampness in the front two rooms;
- evidence of rot to the skylights
- evidence that the windows leaked and
- evidence of cracked rendering

resulting in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

9. Findings of fact

The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

The Committee found that there was no significant dampness in the two front rooms of the Property, no evidence of rot to the skylights, no evidence of leaking windows and no evidence of cracked rendering.

Consequently they found the Property to be wind and watertight and in all other respects reasonably fit for human habitation.

Decision

10. The Committee accordingly determined that the Landlord had not failed to comply with the duties imposed by Sections 13 (1)(a) of the Act, as stated.

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.

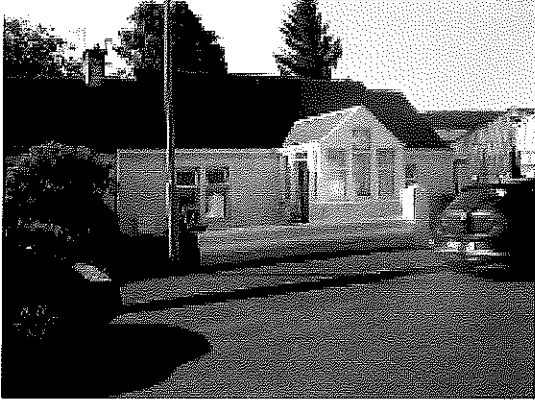
J. TAYLOR

Signed
Chairperson

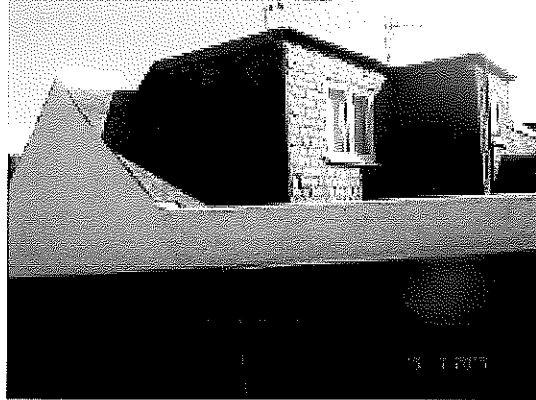
..... Date 17th July 2015

65 Brown Street, Newmilns, KA16 9AD

Schedule of photographs : 15th July 2015



Front elevation



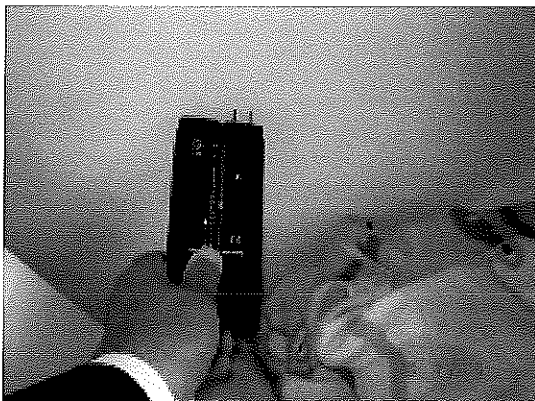
Gable elevation



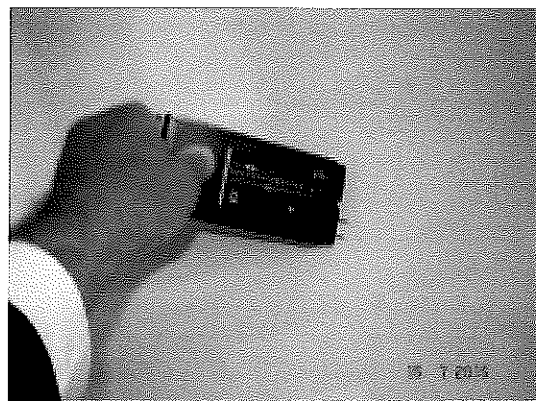
Rear elevation – 1



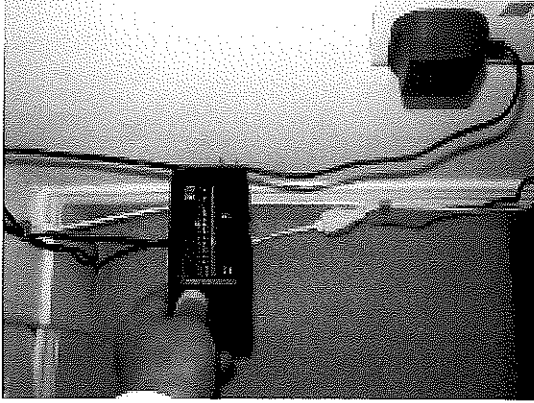
Rear elevation – 2



Meter reading-Front Bed-1



Meter reading-Front Bed-2



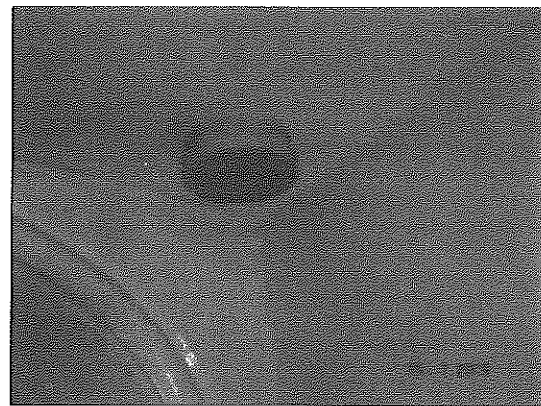
Damp reading—Liv Rm



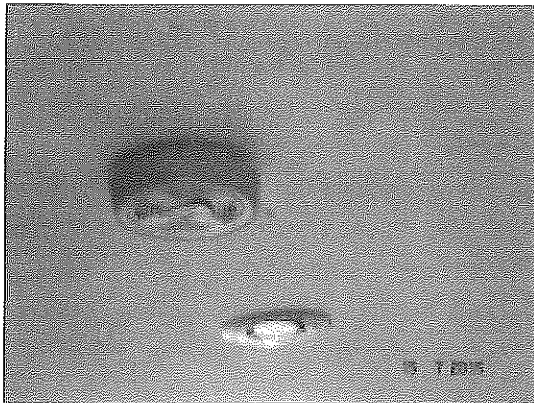
Living Room window – 1



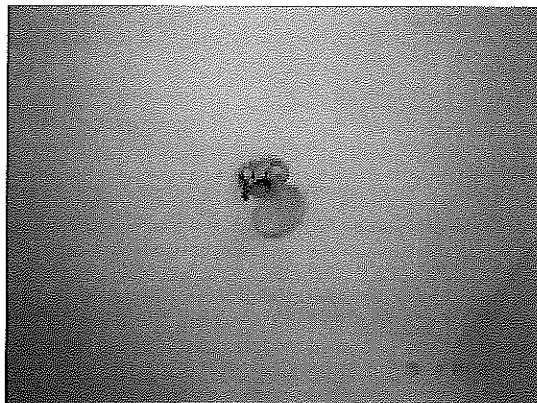
Living Room window -2



Hall –smoke detector-1



Hall smoke detector-2



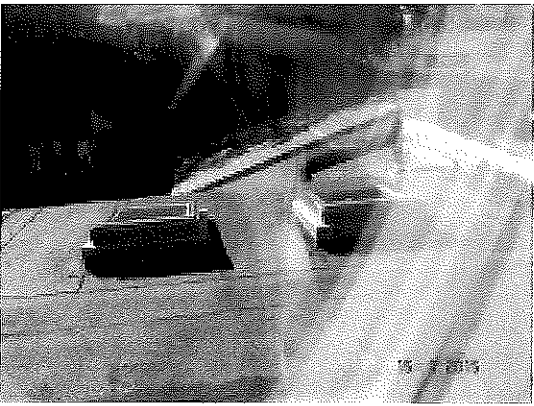
Upper Landing-smoke detector



Stair window



Rear Bedroom window



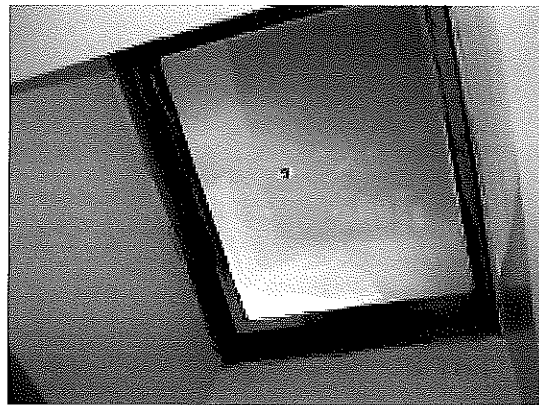
Rear ext—flat roof



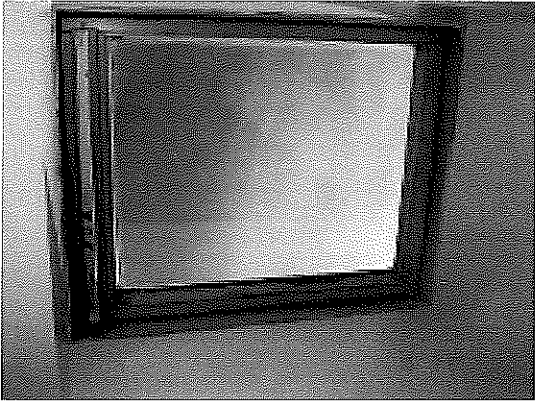
Rear bed window



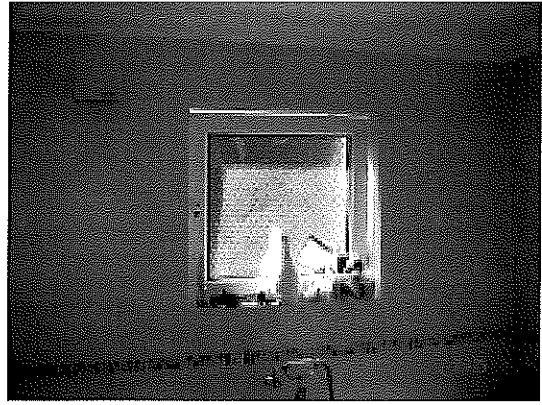
Stair velux window



Kit roof velux-1



Kitchen roof velux-2



Bathroom window