



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 3, Salutation House, Carsphairn, Castle Douglas, DG7 3TQ being part of the subjects registered in the Land Register of Scotland under Title Number KRK3473 ('the Property')

The Parties:-

Kevin Hockey residing sometime at 3 Salutation House, Carsphairn, Castle Douglas, DG7 3TQ ('The Tenant')

Richard Matthews residing at Knockinaam Farm, Ardwell, Stranraer, DG9 9AQ ('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 12th May 2011 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 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. He advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation; that the structure and exterior of the Property was not in a reasonable state of repair and proper working order; that the fixtures, fittings and appliances provided by the Landlord under the tenancy were not in a reasonable state of repair and in proper working order and the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

In particular the application stated that:-

- 2.1 No front door key was provided at the commencement of the tenancy.
- 2.2 The Property was dirty at the commencement of tenancy.
- 2.3 There was old furniture dumped in back yard of the Property.
- 2.4 The first floor toilet was not secure.
- 2.5 The fire surround in living room was loose and had come away from the wall.
- 2.6 The internal door handle of the first floor toilet is missing.
- 2.7 The handle on the outside of the living room door is loose.
- 2.8 The door from the hall to the kitchen does not close.
- 2.9 The top floor and ground floor smoke alarms are missing.
- 2.10 The battery of the first floor smoke alarm was flat.
- 2.11 The upper kitchen cabinet doors are loose due to a number of broken hinges.
- 2.12 The Stair banisters are loose.

- 2.13 The bath panel is broken resulting in a sharp edge.
 - 2.14 There are sections of loose carpet edges at the joins.
 - 2.15 The floor boards on the top floor are loose.
 - 2.16 The bottom step of the external steps is loose.
 - 2.17 The panel on the front door is broken.
 - 2.18 The loft hatch has no board on it.
 - 2.19 At the commencement of the Tenancy he had not been provided with information on the effect of the Repairing Standard.
3. The Tenant notified the Landlord of the defects by letter dated 20th May 2011, which was sent by recorded delivery.
 4. 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.
 5. 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 13th June 2011.
 6. The Committee attended at the Property on 25th August 2011. The Tenant and his wife were present. The Landlord was not present and was not represented. The Committee inspected the alleged defects and found as follows:-

- 6.1 No front door key was provided at the commencement of the tenancy.
The Tenant advised that the front door key had been provided by the Landlord after commencement of the tenancy.
- 6.2 The Property was dirty at the commencement of tenancy.
The Property was now in a clean condition.
- 6.3 There was old furniture dumped in back yard of the Property.
The Committee saw than an old sofa, a storage cabinet and electric florescent light bulb tubes had been deposited in the yard at the rear of the Property.
- 6.4 The first floor toilet was not secure.
The toilet was secure. The Tenant advised that he had carried out the necessary repair.
- 6.5 The fire surround in living room was loose and came away from the wall.
The Tenant advised that the fire surround had come away from the living room wall and he had subsequently placed the fire surround in the back yard of the Property.
- 6.6 The internal door handle of the first floor toilet is missing.
The Committee saw that the internal door handle of the first floor toilet was missing.
- 6.7 The handle on outside of the living room door is loose.
The door handle on the outside of the living room door was only attached by one screw and was loose.
- 6.8 The door from the hall to the kitchen does not close.
The Committee saw that the door did not close.
- 6.9 The top floor and ground floor smoke alarms are missing.
The Committee saw that the attachment plates were in place but the smoke alarms were missing.
- 6.10 The battery of the first floor smoke alarm was flat.
The Tenant advised that he had replaced the battery. The Committee tested the smoke alarm on the first floor, which worked properly.
- 6.11 The upper kitchen cabinet doors are loose due to the broken hinges.
The Committee saw that a number of the doors of the upper kitchen units were loose. The hinges were either broken or in need of repair.

- 6.12 The stair banisters are loose.
The stair banisters were secure.
- 6.13 The bath panel is broken resulting in a sharp edge.
The bath panel was broken, which resulted in a sharp corner section at the top of the bath panel.
- 6.14 There are sections of loose carpet edges at the joins.
There were loose sections of the carpet at joins in the upper hall and the living room.
- 6.15 The floor boards on top floor are loose.
A section of the floor boards in the upper hall were loose.
- 6.16 The bottom step of the external steps is loose.
The bottom step of the external stairs was loose and moved when stood on.
- 6.17 The panel on the front door is broken.
Beading around one of the panels of the front door was missing resulting in the door not being draught proof.
- 6.18 The loft hatch has no board on it.
The loft hatch cover was missing.
- 6.19 At the commencement of the Tenancy they were not provided with information on the effect of the Repairing Standard.
This matter was discussed at the hearing.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Lochinvar Hotel, 3 Main Street, St Johns of Dalry, Castle Douglas, DG7 3UP. The Tenant and his wife were present. The Landlord did not attend and was not represented.

As a preliminary matter the Committee acknowledged that the Tenant had vacated the Property. However they explained that in terms of section 7(3)(b)(i) of Schedule 3 of the Housing (Scotland) Act 2006 they are entitled to continue to determine the application. The Committee confirmed that after due consideration they were continuing their determination of the application.

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

- 7.1 No front door key was provided at the commencement of the tenancy.
This matter had been attended to.
- 7.2 The Property was dirty at the commencement of tenancy.
This matter had also been attended to.
- 7.3 There was old furniture dumped in back yard of the Property.
The presence of the old furniture in the back yard of the Property meant that they had not been able to use this area during the Tenancy.
- 7.4 The first floor toilet was not secure.
The Tenant had attended to this matter.
- 7.5 The fire surround in living room was loose and came away from the wall.
The Tenant had placed the fireplace in the yard at the rear of the Property after it came away from the living room wall.
- 7.6 The internal door handle of the first floor toilet is missing.
As the inside door handle was missing the toilet door could not be closed as it was not possible to open the door from the inside. The Tenant explained that on a couple of occasions his children had locked themselves into the toilet and they had been unable to get out due to the missing door handle.
- 7.7 The handle on outside of the living room door is loose.
The loose door handle means that the door cannot be opened from the inside.
- 7.8 The door from the hall to the kitchen does not close.
The door does not close and the Tenant's wife advised that she considered this to be a fire hazard.
- 7.9 The top floor and ground floor smoke alarms are missing.
The Tenant advised that this matter is self explanatory.
- 7.10 The battery of the first floor smoke alarm was flat.

- The Tenant advised that he had replaced the battery.
- 7.11 The upper kitchen cabinet doors are loose due to the broken hinges.
The loose doors of the upper kitchen cabinets had meant that they had been unable to fully use the kitchen cabinets.
- 7.12 The Stair banisters are loose.
The Tenant advised that he had repaired the stair banister.
- 7.13 The bath panel is broken resulting in a sharp edge.
The sharp edge of the broken bath panel was a danger and they had to take particular care when bathing their children.
- 7.14 There are sections of loose carpet edges at joins.
The loose sections of the carpets were a tripping hazard.
- 7.15 The floor boards on the top floor are loose.
This is also a tripping hazard.
- 7.16 The bottom step of the external steps is loose.
The Tenant advised that the fact that the step is not secure is a hazard.
- 7.17 The panel on the front door is broken.
The Tenant advised that the missing beading around one of the door panels results in the door being draughty.
- 7.18 The loft hatch has no board on it.
The missing cover to the loft hatch results in the upper part of the property being very cold and draughty.
- 7.19 At the commencement of the Tenancy they were not provided with information on the effect of the Repairing Standard.
They only became aware of the Repairing Standard when they consulted the Citizens Advice Bureau. The Committee advised that section 20(1) of the Housing (Scotland) Act 2006 requires the Landlord to provide the Tenant with written information about the effect of the Repairing Standard.

Summary of the issues

8. As stated above, the Tenant confirmed at the inspection and the hearing that the front door key had been provided, The Property had been cleaned, the Tenant had secured the first floor toilet and the banister and he had replaced the battery of the first floor smoke alarm.

Therefore the issues to be determined are:-

- 8.1 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).

Does the presence of the old furniture in the back yard of the Property, the absence of the hatch cover and the condition of the panel of the front door of the Property result in the Property not being wind and water tight and in all other respects reasonably fit for human habitation?

- 8.2 The structure and exterior of the Property was not in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

Does the condition of the door between the hall and the kitchen; the floor boards in the upper hall and the loose external step result in the Property not being in a reasonable state of repair and in proper working order?

- 8.4 That the fixtures, fittings and appliances provided by the Landlords under the tenancy were not in a reasonable state of repair and in proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

Whether the detached fire surround; the handles of the first floor toilet door and the living room door; the upper kitchen cabinet doors; the bath panel and the

sections of loose carpet mentioned are in a reasonable state of repair and in proper working order?

8.5 The Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (section 13(1)(f) of The Housing (Scotland) Act 2006).

Whether there is satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Findings of fact

The Committee found:-

- 9 Front door key had been provided, the Property had been cleaned, the Tenant had secured the first floor toilet and the banister and he had replaced the battery of the first floor smoke alarm, as confirmed by the Tenant.

9.1 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 presence of the old furniture in the back yard of the Property prevented the Tenant from using the back yard of the Property and accordingly the back yard was not reasonably fit for human habitation. The absence of the hatch cover and the condition of the panel of the front door of the Property results in the Property being draughty and therefore it is not wind and watertight in all other respects reasonably fit for human habitation.

9.2 The structure and exterior of the Property was not in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

The condition of the door between the hall and the kitchen; the floor boards in the upper hall and the loose external step, as stated, results in these items not being in a reasonable state of repair and proper working order.

9.3 That the fixtures, fittings and appliances provided by the Landlords under the tenancy were not in a reasonable state of repair and in proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

The fire surround; the handles of the first floor toilet door and the living room door; the upper kitchen cabinet doors; the bath panel and the sections of loose carpet, as stated, were defective and not in a reasonable state of repair and in proper working order.

9.4 The Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (section 13(1)(f) of The Housing (Scotland) Act 2006).

The lack of hardwired interconnected smoke alarms means that the Property does not have a satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Decision

10. The Committee accordingly determined that the Landlord had failed to comply with the duties imposed by Sections 13 (1)(a), 13(1)(b), 13(1)(d), 13(1)(f) and 14 of the Act, as stated.

11. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1). The Repairing Standard enforcement Order has a time limit of the 13th October 2011 for the Landlord to carry out works necessary to bring the Property up to the Repairing Standard.

12. The decision of the Committee was unanimous.

Right of Appeal

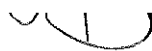
13. A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

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.

J Taylor

Signed
Chairperson



..... Date 31st August 2011



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re 3, Salutation House, Carsphairn, Castle Douglas, DG7 3TQ being part of the subjects registered in the Land Register of Scotland under Title Number KRK3473('the Property')

The Parties:-

Kevin Hockey residing sometime at 3 Salutation House, Carsphairn, Castle Douglas, DG7 3TQ ('The Tenant')

Richard Matthews residing at Knockinaam Farm, Ardwell, Stranraer, DG9 9AQ ('The Landlord')

NOTICE TO

The Landlord, the said Richard Matthews residing at
Knockinaam Farm, Ardwell, Stranraer, DG9

Whereas in terms of their decision dated 31st August 2011, 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 Property is wind and water tight and in all other respects reasonably fit for human habitation; that the structure and exterior of the property are in a reasonable state of repair and proper working order; that the fixtures and fittings and appliances provided by the Landlord under the Tenancy are in a reasonable state of repair and proper working order and the Property has a satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

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) Remove the old furniture and debris in the back yard of the Property to render the back yard in a safe and habitable condition.
- (2) Either:-
 - (i) Re-affix the fireplace to the lounge wall to render it secure or
 - (ii) Remove the fireplace from the back yard of the Property and make good the decoration in the lounge rendered necessary by the fireplace being removed from the Property.
- (3) Repair or replace the door handles of the first floor toilet and the living room to render them in proper working order.
- (4) Repair the door between the hall and the kitchen to allow the door to close properly.
- (5) Repair or replace the doors of the upper kitchen cabinets to render them in proper working order.
- (6) Repair or replace the defective bath panel to render it in a reasonable state of repair and proper working order.
- (7) Repair or replace:-
 - (i) The loose carpets in the lounge and upper hall and
 - (ii) The floor boards in the upper hallto ensure that they are all in a safe condition, properly fitted and in a reasonable state of repair.
- (8) Repair and re-affix the bottom step of the external staircase to render it in a reasonable state of repair and proper working order.

- (9) Replace the missing beading of the front door panel to render the door wind and water tight.
- (10) Replace the missing loft hatch cover.
- (11) Install a hardwired interlinked smoke alarm system on each floor in compliance with current regulations.

The Private Rented Housing Committee order that these works must be carried out and completed By 13th OCTOBER 2011.

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 31st August 2011
Chairperson
E G Shedden

..witness: ELIZABETH GIFFEN SHEDDEN, 65, High Street, Irvine