



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/IV2/118/12

Re: Property at 1 Railway Cottages, Culloden Moor, Inverness, IV2 5EE ("the Property")

Sasine Description: ALL and WHOLE those subjects more particularly described in and disposed by Disposition by British Railways Board in favour of David Pearl dated 25 October 1984 and recorded in the Division of the General Register of Sasines for the County of Inverness on 7 March 1985 UNDER EXCEPTION of (1) 3 Railway Cottages being the subjects described in and disposed by Disposition by David Pearl in favour of Ronald McDonald Alexander and Mrs Julie Alexander recorded in the Division of the General Register of Sasines for the County of Angus on 15 December 1988; and (2) 2 Railway Cottages, Culloden Moor, Inverness being the subjects disposed in Disposition by David Pearl in favour of James Christopher Byers and Louise Maclelland recorded in the Division of the General Register of Sasines for the County of Inverness on 30 October 1996.

The Parties:-

DAVID PEARL c/o Pearl & Coutts Limited, Third Floor, 9 White Lion Street, London ("the Landlord")

MRS ELIZABETH WATT residing at 1 Railway Cottages, Culloden Moor, Inverness, IV2 5EE ("the Tenant")

NOTICE TO DAVID PEARL ("the Landlord")

Whereas in terms of their decision dated 18 September 2012, 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 the property is:-

- (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) 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;
- (c) 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;
- (d) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
- (e) The Property has 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 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 a general overhaul of the roof, chimney pots and gable ends of the Property sufficient to render it properly wind and watertight and compliant with the repairing standard. In this regard, and without prejudice to the foregoing generality, the Committee require the Landlord to obtain a report on the condition of the roof from a reputable roofing company and to exhibit this to the Committee. The Committee require the Landlord to carry out any works specified in the said report sufficient to render the roof properly wind and watertight and otherwise compliant with the repairing standard.
- (b) To repair or replace the windows sufficient to ensure that they are capable of opening and closing properly, are properly wind and watertight and otherwise meet the repairing standard.
- (c) To repair or replace the front and rear external doors sufficient to render them properly wind and watertight and capable of opening and closing properly.
- (d) To carry out such works as are necessary to the electrical system within the Property to allow the exhibition to the Committee of a clear periodic inspection report from a suitably qualified electrician confirming that the Property complies with the relevant electrical regulations.
- (e) To ensure that the immersion heater in the kitchen at the Property is in proper working order and capable of use by the Tenant.
- (f) To extend the cupboard housing the hot water tank sufficient that the Tenant can open and close the door of the cupboard housing the said tank properly.
- (g) To obtain and exhibit to the Committee a report on the Property from a reputable damp and timber specialist and to carry out such works as are recommended by the report and as are necessary to ensure that the Property is free from damp penetration and timber damage/decay.
- (h) To install a hardwired interlinked smoke detection system compliant with the relevant safety regulations.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 4 months 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 18 September 2012 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/IV2/118/12

Re: Property at 1 Railway Cottages, Culloden Moor, Inverness, IV2 5EE ("the Property")

The Parties:-

MRS ELIZABETH WATT residing at 1 Railway Cottages, Culloden Moor, Inverness, IV2 5EE ("the Tenant")

DAVID PEARL c/o Pearl & Coutts Limited, Third Floor, 9 White Lion Street, London ("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) in relation to the house concerned, and taking account of the evidence led determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 20 June 2012 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord 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 Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
 - (b) 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;
 - (c) 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;
 - (d) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
 - (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 20 July 2012 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 Landlord and the Tenant.
5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than her original application. The Landlord, by way of letter dated 1 August 2012, made a brief written submission to the effect that he was instructing builders for quotes.
6. The Private Rented Housing Committee inspected the Property on the morning of 6 September 2012. The Tenant was present. The Landlord was not present nor represented.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Spectrum Centre, Inverness and heard from the Tenant. The Landlord was not present nor represented. The Tenant represented herself.
8. The Tenant submitted that she had been trying to get the Landlord to carry out works in the Property for years. No progress had been made. Her principal concern was in relation to the roof which she felt was now in an unsafe condition and badly damaged. She was concerned that water and damp were ingressing as a result of this. She also felt the windows and doors needed attention and that if this were done the condition of the Property would be improved. She also highlighted the position in relation to the immersion heater and that she had been getting electric shocks from this.
9. There were no submissions from the Landlord to be considered.

Summary of the issues

10. The issues to be determined are:-
 - (a) Whether the roof of the Property is properly wind and watertight and meets the repairing standard;
 - (b) Whether the windows at the Property are properly wind and watertight and meet the repairing standard;
 - (c) Whether the external doors at the Property are properly wind and watertight and meet the repairing standard;
 - (d) Whether the toilet needed repaired or replaced;
 - (e) Whether new hot and cold water tanks were required;
 - (f) Whether there were damp and timber decay issues within the Property;
 - (g) Whether there was an adequate smoke detection system within the Property compliant with the relevant regulations.

Findings of fact

11. The Committee found the following facts to be established:-
 - The roof was not properly wind and watertight and was not compliant with the repairing standard.

- The windows were not properly wind and watertight and compliant with the repairing standard.
- The doors at the Property were not properly wind and watertight and compliant with the repairing standard.
- The toilet at the Property was now working properly.
- A new cold water tank had been installed and was satisfactory.
- A new hot water tank had been installed and was satisfactory.
- The immersion heater had been repaired/replaced but had not yet been connected.
- There were several areas of damp within the Property and a likelihood of timber decay.
- There was not an adequate smoke detection system compliant with the relevant Regulations.

Reasons for the decision

12. The Committee based its decision primarily on the evidence obtained during the course of the inspection. The Committee first carried out a visual inspection of the roof. It was apparent that no work had been carried out on this for very many years. It was in very poor condition. One of the gable ends had dropped significantly and there were numerous cracked and missing slates throughout. There was evidence in the upper floor bedrooms of previous water ingress, although this had been temporarily patched by a neighbour. The Committee were of the view that the Landlord would require to obtain a report on the roof from a reputable roofing company and to implement the recommendations of the report. The Landlord would require to carry out a general overhaul of the roof, including the flat section, repair all cracked and missing slates and carry out any other works necessary to render the roof properly wind and watertight.

The Committee also inspected the windows and skylight at the Property. Although the Tenant had kept the windows internally in reasonable condition, externally they were in very poor order. It was clear that no work had been done for many years. A number of the panes of glass were loose or cracked. The putty on the external side of the windows had almost completely disappeared in places. The wood was damp and rotten in places. The Committee were of the view that the Landlord would require to carry out a thorough overhaul of the windows or, alternatively, replace them. The works would require to be sufficient to ensure that all the windows in the Property could be opened and closed smoothly, and were properly wind and watertight.

The Committee inspected the front and rear external doors at the Property. On the front door, the door handle had become detached several years ago. There was evidence of damp staining within the inside hall as a result of the door becoming ill fitting over the years. The Committee were of the view that the Landlord would require to carry out such works as were necessary to render the external door to be properly wind and watertight or, alternatively, to replace it. Similar works were required to the rear external door which was suffering from the same problem.

The Committee noted that the Landlord had sent a plumber up to the Property recently. The toilet, which had not been flushing for some time, had now been fixed to the satisfaction of the Tenant. A new cold water tank had also been installed to the satisfaction of the Tenant. A new hot water tank had also been installed, which the Tenant was pleased with. This had not yet been connected to the immersion heater. The Tenant had previously been getting electric shocks from this. In light of this the Committee felt it inappropriate to test this for health and safety reasons. The Committee

had noted that the wiring in the Property was generally dated and given that there had been this safety issue the Committee were of the view that the Landlord would require to obtain a clear periodic inspection certificate from a qualified electrician and to carry out any works that were required to ensure compliance with the relevant electrical regulations. The Committee also noted that the new hot water tank that had been installed was too large for the cupboard by quite some margin and, as a result, the cupboard door could no longer be shut. The Landlord would require to employ a joiner to extend the cupboard out so that the door could be shut properly.

The Committee noted that damp meter readings taken around the floors of the Property and the lower walls showed very high readings. The Committee were of the view that there was rising damp within the property and that this may also be causing timber damage/decay. The Committee would require the Landlord to obtain and exhibit to the Committee a report from a reputable timber and damp specialist identifying works that were required. The Landlord would require to carry out the works recommended by the report to ensure compliance with the repairing standard and to eradicate the damp.

Lastly, the Committee inspected the smoke detection system within the Property. The local fire brigade had been out and installed two battery alarms but had highlighted to the Tenant, correctly, that these were merely temporary measures and were not compliant with the relevant regulations. Since 2007 it has been incumbent on landlords in most circumstances to ensure that there is a hardwired, interlinked smoke detection system in rented properties. The Landlord had clearly failed in his duty in this regard and would require to address the matter with the installation of a hardwired interlinked smoke detection system to the appropriate standard.

It was apparent to the Committee that the Landlord had approached his responsibilities in relation to this Property in a haphazard fashion. The fact that the Landlord was located in London did not in any way mitigate his responsibility to the Tenant to maintain the Property in line with the repairing standard. Whilst it was clear that the Landlord was happy to collect the rent from the Tenant it was also clear that he had been negligent in his maintenance of the Property and ignored the requirement to maintain the Property to the repairing standard. The Committee required the Landlord to address these issues forthwith.

The Committee considered the amount of time required for the Landlord to complete the necessary works. The Committee were of the view that, given the extensive amount of works required, a period of 4 months would be appropriate.

Decision

13. The Committee accordingly determined that the Landlord 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 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

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..... *19/9/2012*
Chairperson