



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

prhp Ref: prhp/RP/13/0048

Re : Property at 15 Belmont Street, Newtyle, Blairgowrie PH12 8UE ("the Property")

### The Parties:-

Daryll Rennie, residing sometime at 15 Belmont Street, Newtyle, Blairgowrie PH12 8UE ("the Tenant")

and

The Executors of the late Sir James Arthur Cayzer, Bart, per their representative, Nigel Cayzer, c/o Kinpurnie Estate Office, Newtyle, Angus PH12 8TT ("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, determined that the Landlord had failed / had not failed (delete as appropriate) to comply with the duty imposed by Section 14 (1)(b) of the Act.

### Background

1. By application dated 4 June 2013 and received by the Private Rented Housing Panel ("the Panel") on 4 July 2013, the Tenant applied to the 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 house is wind and water tight and otherwise fit for human habitation,
  - (b) 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,
  - (c) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order,
3. On 14 December 2013, the President of the Panel, having been advised that the Tenant had vacated the Property and was, therefore, treated as having withdrawn the application, decided that the application should be determined on public interest grounds due to the nature of the alleged repairs, which raised health/safety issues for any future tenants and issues as to whether the Property was fit for human habitation and was safe. The President intimated this in a Minute of Continuation issued under Schedule 2 Para 7(2) of the Act. On the same day, the President of the Panel issued a Notice of Direction, requiring the Landlord to provide an up to date electrical inspection report by a suitably qualified electrician on the working order and condition of the installation in the Property for the supply of electricity, which report was also to address the state of repair and working order of the fuse box.

4. By letter dated 17 December 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.
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.
6. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than the original application dated 4 June 2013 and received on 4 July 2013.. The Landlord (by e-mail dated 14 February 2014), made written representations to the Committee.
7. The Private Rented Housing Committee attempted to inspect the Property on 12 May 2014. But was unable to gain access. Neither the Tenant nor the landlord was present or represented at the inspection or at the subsequent hearing at the Angus Hotel, Wellmeadow, Blairgowrie. At the hearing, the Committee decided to continue the application to a later date and issued a Minute of Continuation to that effect. The Committee inspected the Property on the morning of 3 September 2014. Neither the Tenant nor the Landlord was present or represented during the inspection, but the Committee was admitted to the Property by Denise Cassell of Kinpurnie Estate Office, on behalf of the Landlord. The Committee comprised George Clark (Chairman), Mike Links (Surveyor member) and David Hughes Hallett (Housing member).
8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at the Angus Hotel, Wellmeadow, Blairgowrie. Neither the Tenant nor the Landlord was present or represented at the hearing.
9. In the application, the Tenant submitted as follows:- the roof of the Property had been repaired four or five times, but was again leaking, the house had several draughts and was very damp, the fusebox was old, with the trip switch being permanently on, the bath was not secure and the kitchen was in a state of disrepair. In a written intimation to the Landlord dated 18 July 2013, the Tenant added that there was damp in the kitchen cupboards and that there were draughts through the front and back doors.
10. The Landlord had provided the Committee with a Periodic Inspection Report dated 5 July 2013 in respect of the Property and attached to an e-mail of 15 February 2014 a series of receipted invoices relating to works carried out at various houses forming parts of Kinpurnie Estate, with those items relating to the Property highlighted. By e-mail dated 24 December 2013, the landlord had advised the Panel that the Tenant had vacated the Property on 9 August 2013.

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

11. The issues to be determined were whether the Property met the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duties imposed on landlords by Section 14(1)(b) of the Act.

#### **Findings of fact**

12. The Committee finds the following facts to be established:-
  - The tenancy is a Short Assured Tenancy
  - The Property is presently unoccupied.
  - The Periodic Inspection Report for an Electrical Installation is dated 5 July 2013, so post-dates by one day the date on which the application was received by the Panel. The Report states that the general installation is reasonably good and that no remedial work is required. The Committee is satisfied with the terms of the Report.

- There is no evidence of damp in the cupboards of the kitchen units and the kitchen, although dated, is not in a state of disrepair. There is, however, an understairs storage area off the kitchen and, on the external (gable) wall of that area there is an isolated area of rising damp approximately 0.5 metres wide and extending approximately 300mm up the wall.
- The bath in the Property is fully secure.
- The back door of the Property is acceptable within the tolerances for a house of the age and character of the Property, but there is a significant gap beneath the front door. The problem can be resolved by fitting a draught excluder at the foot of the door.
- The Committee tested walls and ceilings throughout the Property with a moisture meter, as the Tenant had stated in the application that the Property was very damp. High moisture readings were found in the party wall with the adjoining house in the area of the chimney breast in each of the two upstairs bedrooms. The moisture has extended across part of the ceilings in both bedrooms.
- The Committee was unable to determine the source of the penetrating damp, but its location suggests that it may result from the roof and chimneyhead not being wind and water tight.

#### **Reasons for the decision**

13. The Committee was unsure whether the reference in the application to "kitchen cupboards" included the understairs area in which an isolated instance of rising damp was evident, but, on the ground that the application was capable of being interpreted so as to include that area in the description of "kitchen cupboards", decided that it could be included in a Repairing Standard Enforcement Order. The draught problem caused by the gap below the front door could be readily solved by installing a draught excluder. The penetrating moisture evident in both of the upstairs bedrooms was, however, a potentially significant problem, which the Committee felt had to be investigated and any necessary repairs carried out to rectify the problem. The Committee had noted that, among the receipted invoices and other paperwork provided by the Landlord was evidence of repair work in May 2011 in respect of water penetration at the chimney stacks and flashings, further repairs to slates in August 2011, replastering of a bedroom in November 2011, a chimney repair in February 2013 and decoration work in April 2013 following water damage within the bedrooms of the Property. The view of the Committee was, however, that there appeared to be an ongoing problem of penetrating damp, which required to be properly investigated and treated.

#### **Decision**

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

#### **Right of Appeal**

17. 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**

18. 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 ..... **G Clark**  
Chairperson

..... Date..... 3 September 2014.....



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: prhp/RP/13/0048

Re : Property at 15 Belmont Street, Newtyle, Blairgowrie, PH12 8UE ("the Property")

**Sasine Description:** ALL and Whole the dwellinghouse and others known as 15 Belmont Street, Newtyle in the County of Angus, being part and portion of the lands and estates of Newtyle (otherwise Kinpurnie) and others in the Counties of Angus and Perth referred to in (1) Notarial Instrument in favour of the Trustees for Sir William Cayzer, Bart., recorded in the Division of the General Register of Sasines applicable to the County of Angus on 28 November 1917 and delineated and coloured pink on the plan annexed to Disposition in favour of Sir Charles William Cayzer, Bart., recorded in the said Division of the General Register of Sasines on 24 November 1903; (2) Notarial Instrument in favour of the Trustees for Sir Charles William Cayzer, Bart., recorded in the said Division of the General Register of Sasines on 29 November 1917; and (3) Disposition in favour of James Arthur Cayzer recorded in the said Division of the General Register of Sasines on 8 May 1957.

**The Parties:-**

The Executors of the late James Arthur Cayzer (represented by their agent, Nigel Cayzer, c/o Kinpurnie Estate Office, Newtyle, Angus PH12 8TT ("the Landlord"))

Daryll Rennie, sometime residing at 15 Belmont Street, Newtyle, Blairgowrie PH12 8UE ("the Tenant")

### **NOTICE TO THE EXECUTORS OF THE LATE JAMES ARTHUR CAYZER ("the Landlord")**

Whereas in terms of their decision dated 3 September 2014, 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 Property is wind and water tight and in all other respects fit for human habitation;
- (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 landlord under the tenancy 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 as are necessary to make the front entrance door of the Property wind and water tight ;
- (b) to instruct a suitably qualified dampproofing specialist to investigate the cause of rising damp in the gable wall of the understairs storage area in the Property and thereafter carry out such works as the specialist may recommend in order to eradicate the rising damp; and
- (c) to instruct a suitably qualified roofing contractor to investigate the cause of penetrating damp in the party wall adjacent to the chimney breast in the two upstairs bedrooms in the Property, thereafter to carry out such works as are necessary to make the Property wind and water tight, and to make good plasterwork in the bedrooms and redecorate as necessary.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 4 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 typewritten on this and the preceding page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade, on 3 September 2014, before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

   **V Clark**                         witness

   **G Clark**                         chairman