



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: prhp/RP/13/0145

Re : Property at Milton House, Blacklunans, Blairgowrie, Perthshire PH10 7LL ("the Property")

Sasine Description: ALL and WHOLE the farmhouse of Milton of Blacklunans, by Blairgowrie, in the County of Perth, being part of the subjects described in Instrument of Sasine in favour of William Shaw, recorded in the Particular Register of Sasines etc for the County of Perth on 9 December 1853 and part of the subjects more particularly described in Disposition by the Executors of the late William Shaw in favour of William James Shaw, dated 21 July and 28 August and recorded in the Division of the General Register of Sasines applicable to the County of Perth on 3 September, all dates in the year 1987.

The Parties:-

William James Shaw, residing formerly at 108 Green Croft Gardens, West Hampstead, London and now at Haycocks, 64 Baldock Street, Ware, Hertfordshire SG12 9DT (represented by his agent, Elliot & Company WS, 8 Charlotte Street, Perth PH1 5LL ("the Landlord"))

Miss Tanya Brown, residing sometime at Milton House, Blacklunans, Blairgowrie, Perthshire PH10 7LL and now at The Old Schoolhouse there ("the Tenant")

NOTICE TO WILLIAM JAMES SHAW ("the Landlord")

Whereas in terms of their decision dated 23 May 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 structure 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) the house 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 such works as are necessary to repair the leak in the front gutter of the Property and such works as are necessary to ensure the structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (b) to carry out such works as are necessary to ensure that the windows throughout the Property can be opened and closed, that they are in a reasonable state of repair and in proper working order and that, when closed, are wind and water tight and lockable;
- (c) to exhibit to the Committee an up to date report on the biological and bacteriological condition of the water supply to the Property and to carry out such works as are necessary to ensure the supply of water meets current health and safety standards;
- (d) to carry out such repairs as are necessary to the bath and bath surround to ensure it is in a reasonable state of repair and in proper working order, including ensuring that the tiling in the bathroom is secure and properly sealed against water leaks;
- (e) to carry out such repairs as are necessary to restore the floorboards in the upper storey of the Property to a reasonable state of repair;
- (f) to obtain, from a suitably qualified timber, damp and rot specialist, a report in respect of the rising and penetrating damp, timber decay and woodworm in the Property and to carry out

such works as are recommended in that report to ensure the house is wind and water tight and fit for human habitation;

- (g) to instruct a suitably qualified electrician to carry out such works as are necessary to ensure that the electrical system is safe and in a proper state of repair and in reasonable working order and, thereafter, to exhibit to the Committee copies of the receipts for the work carried out and a satisfactory up to date Electrical Installation Report;
- (h) to install an interlinked, mains-wired smoke detection system on each floor of the Property, to ensure that there is satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire; and
- (i) to carry out such repairs as are necessary to make the front door of the Property wind and water tight.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of six 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(s) are executed by George Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade on 23 may 2014 before this witness, Alan Charles Inglis, 18 Stockwood Close, Blackburn, Lancashire:-

A Inglis

— witness

G Clark

— chairman



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

prhp Ref: prhp/RP/13/0145

Re : Property at Milton House, Blacklunans, Blairgowrie, Perthshire PH10 7LL ("the Property")

The Parties:-

Miss Tanya Brown, Milton House, Blacklunans, Blairgowrie, Perthshire PH10 7LL ("the Tenant")

William Shaw, Haycocks, 64 Baldock Street, Ware, Hertfordshire SG12 9DT (represented by his agents, Elliot & Company WS, 8 Charlotte Street, Perth PH1 5LL ("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 by the Landlord at the hearing, 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 28 September 2013, 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 house is wind and water tight and otherwise fit for human habitation,
 - (b) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,
 - (c) 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,
 - (d) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order,
 - (e) any furnishings provided by the Landlord under the tenancy are capable of being used for the purpose for which they are designed, and
 - (f) the house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire.

3. By letter dated 20 February 2014, 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 (by e-mail dated 17 March 2014), made further written representations to the Committee. The Landlord (by letter dated 12 March 2014), made written representations to the Committee.
6. Shortly before the date set for the Committee's inspection of the Property, the Tenant advised the Private Rented Housing Panel that she was no longer living at the Property, having taken on a lease of another property in the area. The Committee decided, however, that, as a number of the alleged defects in the Property would, if established, constitute a health and safety issue for a future tenant occupying the Property, it would continue to determine the application under paragraph 7(3) of Schedule 2 to the Act, and the parties were so advised.
7. The Private Rented Housing Committee inspected the Property on the morning of 23 May 2014. The Tenant was not present or represented at the inspection or the subsequent hearing. The Landlord was represented during the inspection and at the hearing by Robert Macduff-Duncan, Associate, and Pam Campbell, Property Manager, both of Elliot & Company WS. The Committee comprised George Clark (legal chairman), Robert Buchan (surveyor member) and John Blackwood (housing member).
8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Angus Hotel, Blairgowrie and heard from the Landlord's representatives.
9. The Tenant's application included a Housing Report dated 4 April 2013, which listed 17 matters and these formed the basis of the Tenant's complaints. For ease of convenience, these are set out in full in Paragraph 12 of this Statement of Reasons, with the Committee's finding of fact in respect of each issue added in bold type.
10. The Landlord's representatives submitted as follows:- .the Tenant had not raised any issues about the Property when she moved in some 10 years ago. When Elliot & Company took over the management of the estate on which the Property stands, they recognised on an inspection that some things had to be done to bring the Property up to scratch. The proceeds of sale of a piece of land on the estate in the spring of 2013 had enabled the Landlord to carry out significant repairs and upgrading at The Old Schoolhouse on the estate. The Tenant had then been offered and had now accepted a lease of The Old Schoolhouse. The Landlord had obtained a report from Wise Property Care indicating work required to the Property at a cost of £8000, but the estate did not have funds to enable that work to be carried out at the time, partly because the Tenant had been withholding rent. The rent was now, however, up to date and the Landlord was in a position to move forward with the necessary repairs to the Property. Contractors who had been asked by the Landlord's representatives to inspect the Property and provide estimates for some of the works had experienced difficulty in gaining access and, for example, the local electrician had been trying for 3 years to fit mains-wired smoke detectors in the Property, but the Tenant had not allowed him access. The Landlord's representatives commented on a number of the complaints in the application and their comments are included in Paragraph 12 of this Statement of Reasons. The Landlord's representatives accepted that it was likely that the Committee would make a Repairing Standard Enforcement Order, but asked that the timescale for carrying out the work be generous, given the desire of the Landlord to support local tradesmen when instructing the work and the fact that it will be carried out as part of an overall refurbishment of the Property.

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 an assured tenancy, which has been lawfully terminated.
 - The Tenant complained that the shower above the bath had leaked into the kitchen ceiling below and that the wall in the bathroom was bowing out, causing the tiles to fall off, which seemed to be the cause of the water leak into the kitchen below. The Landlord's representatives said that they did not know when this had happened, but the ceiling was now dry and that the Perspex board which covered a section of tiling had been put in by the Tenant, who had told them that she was considering renovating the bathroom, including re-tiling.
The Committee found evidence of significant past water leakage through the kitchen ceiling, but that the ceiling was now dry, apart from the area at the party wall with the front room, where high moisture readings were obtained in the wall and on the floor. The Committee also noted significant defects in the tiling and grouting, with an area having been covered by a sheet of Perspex, and that some of the tiles along the side of the bath were loose, where there was evidence of the wall behind being bowed and uneven. The Perspex sheet could only be regarded as a temporary repair and the general state of the tiling and grouting suggested to the Committee that the problem of leakage from the shower above the bath was likely to recur.
 - The Tenant complained that the ceiling light in the kitchen did not work. **This was confirmed by the Committee at the inspection.**
 - The Tenant had concerns about the private water supply to the Property and believed that there was no treatment to the water. **The Committee noted that the Landlord had not provided any test reports regarding the biological and bacteriological condition of the water.**
 - The Tenant complained that the window in the sitting room did not open. **The Committee found that this window appeared to be firmly painted shut. The Committee also noted that, in all of the rooms, the windows were to some extent in a poor state of repair and several were either nailed or screwed shut and could not be said to be in proper working order.**
 - The Tenant complained that the paint was peeling from the outside walls in the room used as an office. She also complained that there were holes in the rendering of the house, especially the gable ends. The Landlord's representatives told the Committee that some external painterwork had been carried out (but not to the woodwork) and that repairs to rhones had been carried out, but that the repairs to three holes in the rendering at the northwest gable had been carried out by the Tenant, not by the Landlord. **The Committee found that the external decoration of the Property was poor. There were high moisture readings in all the external facing walls of the Property. The external decoration of the windows was bare and blistered in many places, with a number of window frames and sills showing evidence of serious rot. There was paint peeling from rhones and drains. Three holes in the northwest gable of the Property had been crudely repaired and heavy staining on the northwest gable wall suggested that there may have been a problem with the flue from the chimney above.**
 - The Tenant complained that the paint on the ceiling of the bathroom was peeling. **The Committee found clear evidence of that.**

- The Tenant complained that some of the floorboards in the upstairs rooms had dropped noticeably. **The Committee found evidence of uneven flooring on the landing and in the end bedroom. The bedroom was carpeted and the Committee did not lift the carpet, but it appeared that there was at least one hole in the flooring close to the bedroom door.**
- The Tenant claimed that the roof leaked near some electrical points and that there were slipped and missing tiles on the roof. The Landlord's representatives told the Committee that some work had been done on the roof, including replacing slipped and missing slates. **The Committee found no evidence of roof leaks, but daylight could be seen through some sections of the roof when viewed from below. There was no indication of a serious problem relating to slipped or missing slates.**
- The Tenant complained that the Landlord had not fitted any smoke alarms and that she had had to install her own battery operated alarms. The landlord's representatives told the Committee that an electrician instructed by them had been unable to gain access to the Property to fit mains-wired smoke detectors. **The Committee found that there were no mains-wired smoke detectors in the Property.**
- The Tenant complained that the wind came in around the front door of the Property. **The Committee found that daylight was visible around the vertical element of the door frame.**
- The Tenant complained that there was dampness and mould growth on the walls and ceiling in the downstairs WC. **The Committee found the position to be as stated by the Tenant and also noted pools of water on the floor, possibly resulting from floor cleaning.**
- The Tenant complained that there was a crack in one of the chimney breasts and that one of the chimney pots was leaning to one side. **The Committee noticed a hairline crack in the southeast gable wall and also in the northwest gable chimney stack, where one of the chimney pots was leaning from the vertical. Extensive, high instrumental moisture meter readings were noted down the southeast wall internally.**
- The Tenant complained that some of the rhones were damaged and leaking, causing water to leak down the outside of the house. **The Committee found that the rhone to the front of the house was leaking and that the rhones required to be repainted.**
- The Tenant stated in her complaint that the boiler had last been checked in January or February 2012. **The Committee noted that the boiler was oil-fired and that there was no requirement for the Landlord to carry out an annual safety check, as would be the case for a gas-fired boiler.**

Reasons for the decision

13. The Committee found sufficient evidence to support most of the Tenant's complaints and there appeared to be little dispute between the parties as to the condition of the Property. The Landlord's representatives did point out that they had tried to arrange for estimates to be obtained for some of the required works, but that the Tenant had been resistant to granting access to their contractors and, as the Tenant was not present at the inspection or hearing, the Committee had no way of testing that assertion. The Property is in a very poor state of repair, but the Committee accepted the view expressed by the Landlord's representatives that it was the Landlord's intention to bring the Property up to the Repairing Standard, now that the Tenant had been re-housed in another property on the estate. The Committee accepted that the works required by the Order it proposed to make would take some time to complete and, as the Property is now vacant, the Committee was prepared to grant a generous amount of time for the works to be undertaken.

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.
- 17. The Committee wished further comments to be brought to the attention of the Landlord, in respect of matters which did not form part of the Repairing Standard Enforcement Order. The light fitting in the bathroom did not form part of the Tenant's application, but its position and height made it a significant safety hazard and the Landlord should ensure that this is remedied. The Landlord should also carry out such repairs as are necessary to the areas of the gable walls where there are hairline cracks. It would also be prudent to consider obtaining an up to date service report on the central heating boiler.

Right of Appeal

- 18. 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

- 19. 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** Date 23 May 2014
Chairperson