



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

**Property at 43 Auchmuty Road, Glenrothes KY7 5NG, being the subjects more particularly described in Land Certificate number FFE5616
(Hereinafter referred to as "the house")**

Mrs. Margaret Coupe, formerly of 43 Auchmuty Road, Glenrothes ("the Tenant")

Mr. William Russell, c/o Advance Properties, 36 Crosshill Business Centre, Main Street, Crosshill, Lochgelly, Fife KY5 8BJ (represented by Mrs. Yvonne Russell, spouse of the said William Russell) ("the Landlord")

PRHP REFERENCE KY7/136/12

NOTICE TO Mr. William Russell ("the Landlord")

Whereas in terms of their decision dated 26 November 2012, the Private Rented Housing Committee having 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 house meets the repairing standard in that the house is wind and watertight and in all other respects reasonably fit for human habitation; and the structure and exterior of the house 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 repair or replace the conservatory door to make it draught proof and conveniently lockable using reasonable force to ensure that the house is wind and watertight and in all respects reasonably fit for human habitation; and the structure and exterior of the house is in a reasonable state of repair and in proper working order.*

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 28 days 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 signed by Aileen Margaret Devanny, Chairperson of the Private Rented Housing Committee, at Glasgow on Tenth day of December, Two Thousand and twelve in the presence of the undernoted witness:-

R Buchan

A Devanny

WITNESS.....

..... R BUCHAN Vice-president
..... Europa Building
..... 450 Argyle St
..... Glasgow



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**

In connection with

**Property at 43 Auchmuty Road, Glenrothes KY7 5NG, being the subjects more particularly described in Land Certificate number FFE5616
(Hereinafter referred to as "the house")**

Mrs. Margaret Coupe, formerly of 43 Auchmuty Road, Glenrothes ("the Tenant")

Mr. William Russell, c/o Advance Properties, 36 Crosshill Business Centre, Main Street, Crosshill, Lochgelly, Fife KY5 8BJ (represented by Mrs. Yvonne Russell, spouse of the said William Russell) ("the Landlord")

PRHP REFERENCE KY7/136/12

DECISION

The Committee, having made such enquiries as is 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 and the written documentation attached to the application and written representations submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act")

Background

1. By application dated 12 July 2012 and received on 25 July 2012 the Tenant applied to the Private Rented Housing Panel (hereinafter referred to as "PRHP") for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1) (b) of the Act.
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the house meets the repairing standard

and in particular that the Landlord had failed to ensure compliance with Section 13(1) of the Act which states that the house is wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and proper working order; and 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 Tenant's complaint of disrepair within the application relates to the back door being cracked and is not wind and watertight; the toilet door is cracked and provides a lack of privacy; the steps to the rear of the house are loose and unsafe; the conservatory roof is leaking; the conservatory door is not wind and watertight; the tap in the kitchen drips; the pipes leak in the kitchen with water soaking into the units; and the lock in the back door is faulty. She submitted copies of correspondence which had passed between her and Advance Properties concerning her complaints. A copy of the short assured tenancy agreement between the Landlord and the Tenant was submitted as a production.

3. By letter dated 16 August 2012 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 23(1) of the Act to a Private Rented Housing Committee.

The Committee comprised the following members:

Mrs. Aileen Devanny, Legal Member
Mr. Donald Marshall, Surveyor Member

4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2 Paragraph 1 of the Act upon the Landlord and the Tenant. Following service of the Notice of Referral the Panel was advised that the Tenant vacated the house on 27 August 2012. The Landlord's agents confirmed that they had offered to carry out repairs but the Tenant indicated on 18 July 2012 that she wished them to do so after she vacated the house. The landlord's agent confirmed on 4 October 2012 that the repairs had been completed and the house re-let.

5. Having received confirmation that the tenancy had been lawfully terminated, the Committee decided to continue to determine the application on public interest grounds in terms of Schedule 2 Paragraph 7(3) of the Act due to the nature of the alleged complaint which could raise concerns for future tenants.

6. The Private Rented Housing Committee inspected the house on the morning of 26 November 2012. The Landlord's agent, Mrs. Yvonne Russell, attended with two handymen from Advance Properties. They explained that the house has been re-let and they had the permission of the new tenants to provide access.

7. Following the said inspection the Private Rented Housing Committee held a hearing at Collydean Community Centre, Torphins Avenue, Glenrothes. The Committee considered the written evidence submitted and heard representations from the

Landlord's agent, Mrs. Yvonne Russell, and a staff member of Advance Properties, Ms. Michelle Simpson. After hearing representations, the Committee adjourned to consider all the evidence and the representations, and to make their determination.

Submissions at the Hearing

7. It was pointed out by the Committee Chairperson at the start of the hearing that the Committee was there to determine whether the house met the repairing standard in terms of the Act.

The Landlord's agent explained that the Landlord had offered to carry out works before the Tenant vacated the house but at the request of the Tenant had arranged to complete them after the tenancy terminated and had done so before the new tenants took up occupation.

Summary of the issues

8. The issue to be determined is whether the house meets the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duty imposed by Section 14(1) (b).

Findings in Fact

9. The Committee made the following findings in fact:-

9.1. On 26 September 2009 the Tenant entered into a lease with the Landlord for the let of the house. The Tenant continued in occupation of the house from that date until 27 August 2012. The lease is a short assured tenancy in terms of the Housing (Scotland) Act 1988. The provisions outlined in Chapter 4 of the Act apply.

9.2. The Tenant notified the Landlord of the required works to the house and submitted an application to the Panel on 25 July 2012. It is clear from e-mail correspondence that the Landlord's agents were aware of the Tenant's complaints.

9.3. The inspection by the Committee on 26 November 2012 revealed:-

The house is end terraced and two storey in a block of three properties. The Committee confined their inspection to the specific complaints in the application although they did notice that the front step leading to the entrance was crumbling and formed a trip hazard.

The weather at the time of inspection was dry.

Findings internally: The plumbing works and kitchen tap were satisfactory with no evidence of a leak; the toilet door had been filled; the lock on the kitchen back door had

been replaced leaving a hole in the side of the door which should be filled and the cracks in the door had been filled; there was evidence that the gap in the conservatory roof had been filled although the finish of the repair was poor; the slabs at the back door had been repaired; a one centimeter gap along the side of the conservatory door was observed. There was a draught from this door even when closed and the door was difficult to close, lock and secure. The door appeared slightly warped and it took both handymen several attempts to try to close it.

Reasons for the Decision

10. In considering the repairing standard issue the Committee carried out an internal and external inspection of the house and in particular closely examined the specific defects highlighted by the Tenant in the application and detailed in the correspondence. In addition the Committee carefully considered the written documentation and oral evidence submitted. The Committee considered the representations of the Landlord's agents in relation to the repairing standard.

The Committee considered that the front step is a trip hazard and should be repaired, but since this repair does not form part of the items of complaint in the application, the Committee has no powers to include this in a Repairing Standard Enforcement Order. Most of the works within the application have been the subject of repair and although the Committee considered the finish to the back door should be improved and the gap at the side of the door where the lock was removed should be filled, the Committee could not say that these items fell short of the repairing standard. The Committee considered that the only item of complaint which contravened the repairing standard was the Conservatory door which was not wind and watertight and was not secure. The house did not meet the repairing standard laid down in Section 13(1) (a) and (b) of the Act which states the repairing standard is met if "the house is wind and water tight and in all other respects reasonably fit for human habitation; and the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and proper working order".

Decision

11. The Committee, considering the terms of Section 13(3) of the Act, determined that the Landlord had failed to comply with the duty imposed by Section 14(1) (b) of the Act.

12. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(2).

13. The decision of the Committee was unanimous.

Right of Appeal

14. 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

15. 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.

A Devanny

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Chairperson, 26 November 2012