

Determination by Private Rented Housing Committee

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 24(1) of the Housing (Scotland) Act 2006

Case Reference Number: PRHP/RP/15/0102

Re: Property at 31 Seatown, Gardenstown, Banff, AB45 3YQ

Land Register No: BNF2023

The Parties:-

Ms Melissa Grieff, residing at 31 Seatown, Gardenstown, Banff, AB45 3YQ
("the tenant")

And

John William Scrudis and Mrs Sandra Anne Scrudis, residing at Durn House, Durn Road, Portsoy, Banff, AB45 2XT **("the landlords")**

The Committee comprised:-

Mr James Bauld	-	Chairperson
Mr Angus Anderson	-	Surveyor Member
Mrs Linda Robertson	-	Housing Member

Decision

1. The Committee unanimously decided that the landlords had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the 2006 Act"). The Committee accordingly proceeded to make a Repairing Standard Enforcement Order ("RSEO") as required by Section 24(2) of the 2006 Act.

Background:-

2. By application dated 10th March 2015, the tenant applied to the Private Rented Housing Panel ("PRHP") for a determination that the landlords had failed to comply with the duties imposed by Section 14(1)(b) of the 2006 Act. In the application made by the tenant, she stated that she considered that the landlords had failed to comply with their duties to

ensure that the house met the repairing standard and in particular that the property was not reasonably fit for human habitation and that it was affected by dampness, that the window frames required repair or replacement, that the electrical system was not in a reasonable state of repair and the heating costs were excessive, that the property did not have proper smoke alarms and that an external door required to be repaired. By letter dated 15th April 2015 the president of the PRHP intimated the decision to refer the application under Section 22(1) of the 2006 Act to a Private Rented Housing Committee.

3. Subsequently the Committee served notice of referral under and in terms of the 2006 Act upon both the landlords and the tenant indicating that an inspection and a hearing would take place on 29th June 2015. Intimation was given to the parties that the inspection would take place at 12.00 noon and that a hearing would thereafter be held in Banff at 1.00 p.m.
4. The Committee attended for the inspection of the property. The tenant was present during the inspection. The landlords were also present during the inspection. Following the inspection of the property, the Committee held a hearing within the Fife Lodge Hotel, Banff. The tenant and the landlords were all present at the hearing.

The Hearing:-

5. At the hearing, the Committee explored with the parties the various issues which had been raised by the tenant. The parties were questioned with regard firstly to the condition of the windows within the property. During the course of the hearing, the landlords indicated that it is their intention to replace all the current wooden single glazed framed windows with double glazed windows to match the two windows which are on the ground floor. They also agreed that the window within the kitchen required repair.
6. The parties were then questioned with regard to the issues of dampness within the property. It had been noted during the inspection that there were a variety of areas within the property which were showing signs of dampness. The landlords indicated they were not aware of the source of the dampness but accepted during the course of the inspection that clear evidence was found of the presence of dampness in various rooms and positions within the property. The landlords accepted that work to ascertain the source of the dampness may be disruptive but that they would be willing to carry out the relevant works.
7. The parties were then questioned with regard to the presence of smoke alarms within the property. It was noted there was a hard wired smoke alarm on the upper level of the property and a battery operated smoke alarm within one of the rooms on the ground floor. The landlord had indicated that he was organising quotes to have hard wired smoke alarms placed on both levels of the property together with a heat detector in the kitchen. Mr Scrudis indicated that the difficulty had been that he had been given different advice from two local councils with regard to whether a building warrant was required for these works. He was now satisfied that a building warrant was not required and he indicated the works would proceed.
8. The hearing then addressed the issues relating to the electrical installations and wiring within the property. It was noted that there had been a fire within the basement of the property in March which had caused great anxiety to the tenant. Subsequent to that fire certain works had been carried out to replace a consumer unit which was close to the pump which was related to the central heating system. It was noted during the course of the inspection that the main consumer unit within the property which was situated on the upper floor had been last checked in 1990. The landlord accepted that the property had not been re-wired since at least that date. The landlord noted the tenant's claim that various bulbs had exploded at various times and that the tenant had serious concerns with regard to the safety of the electrical wiring throughout the property. The landlords indicated that they would be happy to have appropriate electrical tests carried out.

Following a brief discussion on the subject of excessive heating costs, the Chairman advised Miss Grieff that the matter of heating cost and efficiency fell outwith the scope of the repairing standard, which deals only with the condition and operation of the heating installation.

9. Finally the hearing dealt with the complaint raised by the tenant relating to the external door to the basement of the property. The door was currently secured by means of a padlock and hasp. The door handle and locks were not working. The tenant simply indicated that she wanted the door to close properly using a lock as her mail was delivered through this door and she was concerned with regard to the security aspect of it. It was also noted that there may well be some damp ingress at the door which required to be rectified. And the landlords accepted that the door was not currently in a state of proper working order and that they had previously agreed that they would replace the door.

Findings of Fact

10. Having considered all the evidence the Committee found the following facts to be established.
 - (a) The subjects of let comprised a semi-detached cottage, one storey and attic in height. The property was constructed upwards of 100 years ago. The walls are of solid stone, rendered externally and the roof is pitched and slated. The accommodation comprises on the ground floor of an entrance hall, dining room and lounge with the kitchen off and on the attic floor of a landing with a main bedroom, a toilet, a bathroom and a second bedroom. There is also a basement to the property which is accessed from a separate external door. Within certain rooms in the property, in particular in the dining room and at the front door on the ground floor, the second bedrooms and in the basement, there is evidence of dampness. The surveyor member of the Committee took meter readings in various places which confirmed the existence of moisture and dampness.
 - (b) The windows on the ground floor of the property are double glazed units, except the gable window of the lounge, which is single glazed sash and case; this window is painted shut. The two timber framed windows of the lounge have decay to the sills. The kitchen window did not close properly. On the upper floor the windows are all wooden framed, single glazed sash and case units. All of the windows in all of the rooms on the upper floor are in a poor state of repair, both internally and externally. They are suffering from rot, missing putty and have broken cords and pulleys.
 - (c) The electrical wiring and metering and consumer units within the property appear to be dated. The main consumer unit bears to show that it was last tested in 1990. At the time of the inspection, there was evidence of water ingress close to electrical switches above the basement door. It was accepted by parties that there had been a fire in the basement of the property which appears to have been caused by a faulty consumer unit linked to the electric central heating system. Although the faulty consumer unit has been replaced, no recent electrical installation condition report was available to the Committee and the Committee took the view that such a report should be obtained and produced.
 - (d) The property has two smoke alarms. It has a battery operated smoke alarm installed in the living room on the ground floor. This alarm was installed by the local fire service after the fire which had taken place this year. On the upper attic level there is one single hard wired smoke alarm. The alarms are not interlinked and accordingly do not meet the current repairing standard.
 - (e) The external door to the basement area does not close or lock properly. It is not in a reasonable state of repair and does not meet the repairing standard. It is currently secured only by the use of a hasp and padlock.

- (f) The guttering to the property is also in a state of disrepair and evidence of vegetation growing from the guttering was noticed by the Committee. It is possible that the guttering may be a cause of the dampness found within the property. Externally the Committee noted that the render finish to the property was aged and cracked in a number of places. Again this may be a cause of the dampness which was found within the property.

Reasons for Decision

- 11. The Committee considered the issues of disrepair set out in the application and noted at the inspection and hearing.
- 12. At the hearing the Committee closely questioned the tenant and the landlords with regard to all the complaints.
- 13. It seemed to be accepted by all parties that the property was suffering from dampness, that the windows were not in a proper state of repair, that the electrical installations and system within the property required to be examined and inspected, that the smoke alarms within the property required to be upgraded and that the external door to the basement was not in a proper state of repair.
- 14. The committee took the view that they would make a Repairing Standard Enforcement Order ("RSEO") in respect of all of these matters. The Committee noted that the landlords accepted that many of the tenant's complaints were correctly founded and that repair works were required to the property.
- 15. Accordingly the Committee took the view that the property did not meet the repairing standard in respect of the following matters:-
 - (a) Dampness within various rooms in the property.
 - (b) The windows were not in a proper state of repair and in many cases not in reasonable working order.
 - (c) The electrical installations and wiring within the property required to be inspected by a competent electrician.
 - (d) The smoke alarms within the property did not meet the current standards under the repairing standard.
 - (e) The external door to the basement was not in a reasonable state of repair and was not in proper working order.
- 16. The Committee accordingly determined to make an RSEO as required in terms of Section 24(2) of the Act.
- 17. The decision of the Committee was unanimous.

Rights of Appeal

- 18. A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.
- 19. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP of the Committee which made the decision.

Effects of Section 63

- 20. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.
- 21. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed .. **J Bauld**

Date .. *13 July 2015*

James Bauld, Chairperson

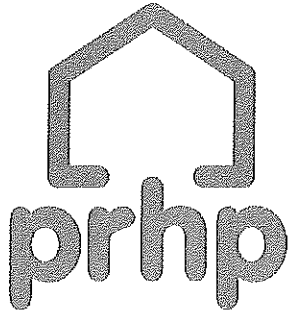
Signature of Witness .. **N Walker**

Date .. *13 July 2015*

Name: *NATALIE WALKER?*

Address: 7 West George Street, Glasgow, G2 1BA

Designation: Senior Court Administrator



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Case reference number : PRHP/RP/15/0102

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Land Register No: BNF2023

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**Ms Melissa Grieff, residing at 31 Seatown, Gardenstown, Banff, AB45 3YQ
("the tenant")**

and

**John William Scrudis and Mrs Sandra Anne Scrudis, residing at Durn House, Durn Road,
Portsoy, Banff, AB45 2XT ("the landlords")**

Notice to John William Scrudis and Mrs Sandra Anne Scrudis

Whereas in terms of the decision dated 13 July 2015 the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular the landlords had failed to ensure that:-

- (a) the house is wind and watertight and in all respects reasonably 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) the structure and exterior of the house is in a reasonable state of repair or in proper working order
- (d) that 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 landlords to carry out such work as is necessary for the purpose of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of the works in terms of the order is made good.

In particular the Private Rented Housing Committee requires the landlords to carry out the following work

- To commission an appropriately qualified building and/or roofing contractor to investigate the nature and cause of the dampness found within the various rooms in the property and to identify relevant works required to eradicate the source of the dampness and to instruct an appropriate contractor to carry out all relevant works including necessary works to the roof and rainwater goods.
- To carry out appropriate repairs to or replace all windows to ensure that they are placed into a state where they are in a reasonable state of repair and in proper working order
- To instruct an appropriately qualified contractor to carry out a standard electrical installation condition report on the property and to carry out any works which are shown to be necessary in terms of said report to bring the electrical installations and wiring throughout the property into a proper state of repair and to proper working order.
- To install smoke alarms within the property which meet the current repairing standard which will require at least one smoke alarm on each level within the property and a heat detector in the kitchen, which alarms should be hard wired and interlinked.
- To carry out appropriate repairs to the external door to the basement to ensure that it is rendered to a proper state of repair and placed into proper working order.

The Private Rented Housing Committee orders that the works specified in this order must be carried out within three months of the date of this Order.

A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the PRHP or the Committee which made the decision.

Where such an appeal is made the effect of the decision or of the order is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the order are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed..... **J Bauld**

Date..... *13 July 2015*

James Bauld, Chairperson

Signature of Witness. **N Walker**

Date..... *13 July 2015*

Name: *NATALIE WALKER*

Address: 7 West George Street, Glasgow, G2 1BA

Designation: Senior Court Administrator