



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re: 9 Weston Avenue, Annbank, KA6 5EE ('the Property')

The Parties:-

Mrs Jessie Brown, residing at 9 Weston Avenue, Annbank, KA6 5EE ('The Tenant')

Buchanan Heritable Limited, 187A, Stonelaw Road, Glasgow, G73 3PD ('The Landlords')

Case Ref: PRHP/RP/15/0119

NOTICE TO

The Landlords, the said Buchanan Heritable Limited

Whereas in terms of their decision dated 29th June 2015, the Private Rented Housing Committee determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular the Landlords have failed to ensure that the Property was wind and water tight and in all other respects reasonably fit for human habitation.

The Private Rented Housing Committee now requires the Landlords to carry out such work as is necessary for the purposes of ensuring that the Property 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 Landlords to:-

1. Eradicate the dampness in the front and rear bedrooms of the Property and carry out necessary redecoration.

The Private Rented Housing Committee order that these works must be carried out and completed By 15th August 2015.

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.

Signed.....**Jacqui Taylor**..... Date 29th June 2015
Chairperson.....
.....Paula Hunter..... witness: PAULA HUNTER, 65, High Street, Irvine



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

Re: 9 Weston Avenue, Annbank, KA6 5EE ('the Property')

The Parties:-

Mrs Jessie Brown, residing at 9 Weston Avenue, Annbank, KA6 5EE ('The Tenant')

Buchanan Heritable Limited, 187A, Stonelaw Road, Glasgow, G73 3PD ('The Landlords')

Case Ref: PRHP/RP/15/0119

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the Property, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 11th April 2015 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords have 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 she considered that the Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. They advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation.

In particular the application stated:

'Rising damp in back bedroom. The problem was logged over three years ago. This was caused by external wall damage in internal damage at upper floor stairwell. External wall fixed in October but not by Landlord but by Council applying new cladding to all houses in village through government green scheme. Internal walls still get rising damp and carpet and floors soaking. Bedroom has been uninhabitable for three years furniture and clothing damaged.

Internal walls need to be fixed.

Flooring needs to be lifted.'

3. The President of the Private Rented Housing Panel, having considered the application, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Committee members were Jacqui Taylor (Chairperson), George Campbell (Surveyor Member) and Jim Riach (Housing Member).

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 Landlords and the Tenants, dated 1st May 2015.
6. The Committee attended at the Property on 25th June 2015. The Tenant, her son Dugald Brown and her granddaughter Karen Watson were present. The Landlords' representative Sandy Mowat was also present.

The Committee inspected the alleged defects and found evidence of dampness in the front and rear bedrooms. The dampness in both rooms was present in the internal walls in the areas where the walls adjoin the internal stair case of the upper floor property. The dampness in the rear bedroom was more extensive.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Annbank village hall, Weston Avenue, Annbank, KA6 5EE. The Tenant's son Dugald Brown and her granddaughter Karen Watson were present. The Landlords representative Sandy Mowat was also present.

Dugald Brown explained that the problem of the dampness in the two bedroom had been ongoing for a number of years. Three years ago the rendering of the rear wall of the Property had been renewed. Also the whole property had been re-rendered under the government green deal scheme last October. However these works had not cured the dampness. The Landlords' agents Hacking and Paterson had engaged approximately eight contractors over the years to investigate the dampness. Most recently in April/ May this year contractors had removed the fireplace in the rear bedroom and an area of internal plaster from the rear wall of the back bedroom to enable the problem to be investigated further. Despite these works and investigations the dampness remains.

Sandy Mowat advised the Committee that he accepted that there was a problem with dampness in the Property. The sale of the Property had been placed on hold until the dampness has been repaired. He had obtained a quotation from Advanced Preservation Specialists and they are scheduled to carry out the works on 13th July. He explained that he anticipated that the works would be completed by 15th August 2015.

8. Summary of the issues

The issues to be determined are:-

The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

Whether the dampness in the bedrooms of the Property results in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

9. Findings of fact

The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

The Committee found that the dampness in both bedrooms of the Property results in the Property not being wind and watertight and in all other respects reasonably fit for human habitation

Decision

- 10. The Committee accordingly determined that the Landlords had failed to comply with the duties imposed by Sections 13 (1)(a) of the Act, as stated.
- 11. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
- 12. The decision of the Committee was unanimous.

Right of Appeal

- 13. **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

- 14. 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.

Jacqui Taylor

Signed Date 29th June 2015
Chairperson