



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Reference PRHP/RP/15/0147

RE: Property at 5 Burnfoot Avenue, Barrassie, Troon KA10 6RF being the subjects more particularly described in Land Certificate Title Number AYR84275 (hereinafter referred to as "the house")

Parties

Miss. Pamela McRavey, residing at the house ("the Tenant")

Mr. Mahar Mohammed Nasir, otherwise known as Mahar Mohammad Nasir and Mohammad Mahar Nasir, 2 Langhaul Avenue, Glasgow G53 7RW ("the Landlord")

NOTICE TO Mr. MAHAR MOHAMMED NASIR "the Landlord")

Whereas in terms of their decision dated 15 July 2015, 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 ("the Act") and in particular that the Landlord has failed to ensure that the house meets the repairing standard in Section 13 of the Act in that:-

- (a) the house is wind and watertight and in all other respects reasonably 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) 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 arrange for an inspection of all aspects of the electrical wiring at the house including an inspection of the fittings and appliances provided by the Landlord, said inspection is to be carried out by a SELECT or NICEIC Registered Electrical Engineer; and following that inspection, an electrical inspection report requires to be prepared and submitted to the private Rented Housing Committee; If works are identified as required in terms of that report, then these works require to be undertaken and certified as satisfactorily completed by the Registered Engineer and the Landlord is required to provide certification to confirm this from a SELECT or NICEIC Registered Engineer acceptable to the Committee.*
- (b) *To identify the source of dampness and to rectify the cause to ensure that the house is wind and watertight; and to redecorate the affected area.*
- (c) *To replace the sill at the kitchen door with treated timber or a suitably weatherproofed material.*
- (d) *To repair and, as required replace, the quarry tiling at the kitchen exit step.*
- (e) *To remove and replace the garage which is at risk of collapse and is beyond economic repair. The replacement structure should be capable of housing a car. To remove the asbestos door of the garage using the services of a competent contractor who is licensed under the Waste Management Regulations who will dispose of the door and a receipt to confirm this is to be submitted to the Committee.*
- (f) *To repair the fencing and the gate opening to ensure that it is constructed to a uniform style of uniform materials and finish and to ensure that it is in a reasonable state of repair and proper working order.*
- (g) *To employ a plumber to sink the rodding eye into the ground so that it is flush with the garden ground level.*
- (h) *To reinstate the front and side boundary walls.*
- (i) *To repair the windows as required to ensure that the windows are in a reasonable state of repair and in proper working order and draught free and that keys are provided to all windows with a locking mechanism. The hall window upstairs being used as a fire exit must be capable of being safely opened and closed.*
- (j) *To repair the skylight velux window so that it is in a reasonable state of repair and in proper working order.*
- (k) *To repair the front door to ensure it is wind and watertight and draught free.*
- (l) *To produce an up to date and satisfactory Gas Safe certificate for the gas*

installation, the boiler and central heating system and any gas appliances provided by the Landlord.

(m) To install fire detection devices in the house which comply with the current guidance issued by Scottish Ministers for the provision for such devices. A copy of the Statutory Guidance referred to is attached to this Order.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of two 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 typewritten on this and the preceding page are signed by Aileen Margaret Devanny, Chairperson of the Private Rented Housing Committee, at Glasgow on Twenty first day of July, Two thousand and fifteen in the presence of the undernoted witness:-

R FORBES

WITNESS.. ..

A DEVANNY

REBECCA FORBES

450 ARGYLE ST, GLASGOW, G12 8LU

PANEL CLERK OF HONP



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 5 Burnfoot Avenue, Barrassie, Troon KA10 6RF
(hereinafter referred to as "the house")**

Miss. Pamela McRavey, residing at the house ("the Tenant")

**Mr. Mahar Mohammed Nasir, 2 Langhaul Avenue, Glasgow G53 7RW whose agents
are Messrs Waddell and Mackintosh, Solicitors, Troon KA10 6AB ("the Landlord")**

Reference PRHP/RP/15 /0147

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 presented and the written representations, 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 30 April 2015 and received on 6 May 2015 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) (a), (b), (c) and (f) 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 in

proper working order; 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; and the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire." The Tenant's complaints are that (a) electrical system in the house has not been safely tested; the electrical wires serving the light in the attic areas were insufficiently insulated, also several lights throughout the house (in the kitchen, the living room, the dining room, the bathroom and the outside of the house) are not in proper working order; the electrical equipment in the kitchen is powered from an extension cable; the external light at the front of the house is damaged and the electrical wires supplying this light are insufficiently insulated; (b) an area of dampness is present within the hall and within the electrical cupboard within the hall. It is believed that this is coming from the area of the hall window and from a possible crack in the roughcast; (c) the timber kitchen door sill is rotten and several tiles on the kitchen door step are defective; (d) the garage, the back garden fence and gate are damaged and in poor structural condition; (e) the rodding eye located in the rear garden is sitting proud and is posing a potential trip hazard; (f) the wall at the front of the house is sheared; (g) the rear window in the kitchen is defective and may fall out if opened; (h) the window in the bathroom is not capable of being fully closed; (i) the windows in the house are locked and cannot be opened due to the absence of a key; (j) the handles of the window in the front facing bedroom are loose; (k) the skylight in the loft is cracked; (l) the front door and numerous windows in the house are draughty; (m) there is no gas safety certificate and it is suspected that the engineer who installed the boiler was not registered; (n) it is suspected that the smoke alarms are not hard wired; (o) there is no energy performance certificate; there is no guidance regarding fire and gas safety issues, no fire extinguisher or fire blanket; and no carbon monoxide detector. The Tenant's application submitted to PRHP included copy correspondence between the Tenant and the Landlord's agents and included also a copy of a letter to the Tenant from an environmental health officer at South Ayrshire Council dated 23 April 2015 noting the findings following an inspection of the house in April 2015 and indicating that the Landlord had been notified of the defects which required to be rectified. Following receipt of the application, the President made a decision to refer the application to a Private Rented Housing Committee for a determination and notice confirming this was sent to the parties on 20 May 2015.

3. The Committee comprised the following members:

Mrs. Aileen Devanny, Chairperson
Mr Mike Links, 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, the Landlord's agent and the Tenant. The Committee issued a Direction requiring the Landlord to provide to the Panel by 10 June 2015 an electrical inspection report from a suitably qualified electrician on the working order and condition of the electrical installation, the electrical fittings and appliances including any hard wired fire alarms; and an up to date gas safe certificate

addressing the working order, condition and safety of the gas installation, the heating system and the gas boiler in the house.

No written representations were received from the parties. No response was received from the Landlord to the Direction issued.

5. The Private Rented Housing Committee inspected the house on the morning of 1 July 2015. The Tenant provided access and was present throughout the inspection. The Landlord did not attend the inspection.

Following the said inspection the Private Rented Housing Committee attended for a hearing at Piersland House, Hotel, 15 Craighend Road, Troon KA10 6HD. Neither the Tenant nor the Landlord attended. The Tenant indicated at the inspection that she did not propose to attend.

Enquiry revealed that the Landlord's agent, Messrs Waddell and Macintosh, received the Notice of Referral and intimation of the hearing and inspection on 21 May 2015. Regulation 2 of the PRHP (Applications and Determinations) (Scotland) Regulations 2007 provides that where any formal communication requires to be served on the parties, "the landlord" means the landlord or his authorized representative. The paperwork accompanying the application establishes that this firm represents the Landlord.

Summary of the issues

6. 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

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

7.1. The Tenant occupies the house under a short assured tenancy.

7.2. The Tenant and an environmental health officer of South Ayrshire Council notified the Landlord of the complaints in the application and the Landlord is aware of the alleged repairs.

7.3 The house is a two storey semi detached house in a residential area.

The weather at the time of inspection on 1 July 2015 was dry and sunny with little wind.

7.4 The inspection findings revealed:-

- (a) The boundary wall to the front of the house bounding the pavement and the dividing wall at the front between the house and next door property are in disrepair. The walls are constructed of single brick with a coping at the top. Sections of both walls have collapsed. The brickwork from the section of collapsed walls has been removed but rubble and mortar remains (photo 1).
- (b) The external wall light next to the front door is damaged. It is sitting at an angle and is held in place by exposed wires (photo 2).
- (c) There is an extension to the rear of the house (photo 3).
- (d) Adjacent to the rear extension, a rodding eye located in the garden area is sitting proud by about five inches from ground level and is a trip hazard (photo 4).
- (e) The external light on the rear extension above the patio doors has exposed wires (photo 5).
- (f) The guttering and downpipe at the rear extension is not connected (photo 6). From paperwork submitted to the Committee it appears that this item has not been notified to the Landlord.
- (g) The rear garden fence has a slat missing, a metal strut is in place but there is no fence and there is no access through the gate (photo 7).
- (h) The timber garage wall is bulging and sections of the wood are rotten (photo 8). The garage door is constructed of grey asbestos and is crumbling (photo 9). The timber around the perspex window is rotten and the structure and roof of the garage is in poor condition (photo 10).
- (i) Felt is missing to the garden shed roof and parts of the timber are rotten (photo 14). From paperwork submitted to the Committee it appears that this item has not been notified to the Landlord.
- (j) The external step at the kitchen door is in poor condition with broken quarry tiles. The wooden door sill is rotten (photo 11).
- (k) The rendering is cracked at the base of the rear gable wall (photos 12 and 13). This may be the cause of water penetration and dampness.
- (l) The dishwasher and washing machine are powered from an extension cable in the kitchen (photo 15). The fluorescent strip light in the kitchen does not work and the sole lighting in the kitchen is provided from a table light sitting on top of the fridge/freezer (photo 17). The fuse box in the hall cupboard requires to be checked

by a qualified electrician given that it is located within a damp cupboard (photo 16).

- (m) The kitchen window does not lock. The allegation is that the window is insecure and would fall out if opened. For safety reasons this was difficult to check given the associated risks to the Committee members and the possibility of damage to the window if an attempt had been made to open the window (photo 18). The Tenant confirmed there were no window keys. The upstairs hall window, which is the only window which has the means of exit in the event of fire, is locked (photo 32). This creates a risk that the upstairs occupants could not evacuate the house in the event of fire. Some other windows are unlocked and this causes the house to be insecure. Some windows are alleged to be draughty, which was difficult to ascertain at the inspection because of the calm weather conditions. It is possible that the rubber seals are not catching. The bathroom window does not shut and the window handle in the front bedroom is loose (photos 31 and 27).
- (n) The damp meter displayed high moisture readings indicative of the presence of dampness in the vicinity of the downstairs hall window (photos 19-23) and in the electrical cupboard housing the fuse box (photos 24 and 25).
- (o) The rubber seal on the front door frame is twisted and is not performing its function as a draught excluder (photo 26).
- (p) The stairs to the first floor are open and there is no banister to prevent a fall onto the lower level (photo 29). This would be a particular danger to young children and anyone who has an unsteady gait. From paperwork submitted to the Committee it appears that this item has not been notified to the Landlord.
- (q) There are battery smoke detectors on the ceiling of the ground floor hall (photo 28), on the upper floor landing (photo 30) and on the attic ceiling (photo 35). The devices were checked by the Committee and the ground floor and attic devices do not work.
- (r) In the bathroom there is an electrical heater with an electric cable leading from a socket. It is doubtful if this configuration complies with electrical regulations (photo 33)
- (s) The glazing is cracked in the attic velux window (photo 34).
- (t) There are exposed bare wires in the attic (photo 36).
- (u) The access to the attic is by means of timber open stairs which are not fixed. The attic conversion does not appear to conform to building regulations.

- (v) The bathroom ceiling light does not work, nor does the ceiling light in the dining room extension (photo 38). The ceiling in the dining room has a plasterboard repair which has not been finished. From paperwork submitted to the Committee it appears that this item has not been notified to the Landlord.
- (w) The ceiling light in the living room with fan attachment is unsafe and when it is switched on the fan rotates with such vigour that the glass bowl swings unsafely (photo 37).
- (x) The felt on the flat roof extension does not overlap at one section (photo 39). This is likely to be a future weakness and may result in water penetration but is not the subject of complaint in the application. From paperwork submitted to the Committee it appears that this item has not been notified to the Landlord.
- (y) The sticker on the boiler provides the name of the installer (photo 40). It is SR Contractors Ltd. Enquiries by the Committee reveal this company is registered in the Gas Safe register (registration number 132449).

Reasons for the Decision

8. 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. Visual inspection of the house informed the Committee's findings in fact.

- (a) The complaints mentioned aforesaid in 7.4 (a), (g), (h), (j), (k),(m), (n), (o), and (s) are contraventions of Section 13(1) (b) of the Act which is a requirement that "the structure and exterior of the house (including the drains, gutters and external pipes) are in a reasonable state of repair and in proper working order". These items require to be rectified by the Landlord to ensure that the house meets the repairing standard.
- (b) The complaints mentioned aforesaid in 7.4 (b),(d),(e),(l),(r),(t),and(w)are contraventions of Section 13 (1) (c) and (d) of the Act which states that "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; 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." These items require to be rectified by the Landlord to ensure that the house meets the repairing standard.
- (c) The complaints mentioned aforesaid in 7.4 (n), (o) and (j) are contraventions of Section 13(1) (a) of the Act which states that "the house is wind and watertight and

in all other respects reasonably fit for human habitation." These items require to be rectified by the Landlord to ensure that the house meets the repairing standard.

- (d) The complaint mentioned aforesaid in 7.4 (q) is a contravention of Section 13(1) (f) of the Act which states that "the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire." The Landlord requires to comply with the Guidance issued by Scottish Ministers on provision on smoke detection devices to ensure that the house meets the repairing standard.
- (e) The Committee has no jurisdiction in relation to the complaints of lack of an energy performance certificate, lack of fire extinguisher/ fire blanket, lack of guidance or lack of a carbon monoxide detector.
- (f) The complaint mentioned at 7.4 (u) relating to the possible lack of planning permission has not been dealt with as a repairing standard contravention and the local authority has powers to enforce this, if appropriate.

The Tenant's application could not be said to have exaggerated the defects which the Committee saw. The Committee observed from their inspection that she could have added additional items of complaint but did not do so and the Committee commented on some of these in this decision concluding that that they cannot make an order as there is a lack of prior notification on the Landlord. This applies to the complaints mentioned aforesaid at 7.4 (f), (i), (p), (v), and (x). It was observed by the Committee that the environmental health department inspected the house and made comment about necessary repairs. The Committee have no hesitation in concluding that the house does not meet the repairing standard in Section 13 of the Housing (Scotland) Act 2006. **The Committee direct that a copy of this decision and the repairing standard enforcement order with photographs be sent to Landlord Registration of South Ayrshire Council and the Environmental Health Department of that Council.**

The Committee considered that a period of two months from the date of issue of this decision would be a reasonable period of time for these repairs to be carried out by the Landlord.

Decision

9. 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. The decision of the Committee was unanimous.

10. The Committee proceeded to make a Repairing Standard Enforcement Order ("RSEO") as required by Section 24(2), which Order is referred to for its terms. **The Landlord is reminded that should the house become vacant, it is an offence to re-let the house whilst a RSEO applies to the house.**

Right of Appeal

11. 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

12. 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
15 July 2015



5 Burnfoot Avenue, Barassie, Troon KA10 6RF

Schedule of photographs taken at the inspection on 1st July 2015

PHOTO 1.



Front elevation and boundary walls



PHOTO 3

Rear elevation



Wall light on front wall

PHOTO 2



Rodding eye

PHOTO 4

This is the Schedule of photographs referred to in the Private Rented Housing Committee decision dated 15 July 2015.

A Weir
Chairperson.

PHOTO 5



Light and wiring at extension

PHOTO 6



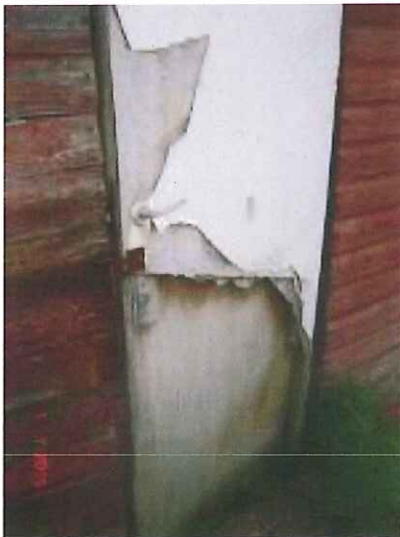
Gutter/downpipe at ext.



Rear garden fence - PHOTO 7



Garage wall - PHOTO - 8



Garage door

PHOTO 9.



Garage roof

PHOTO 10

PHOTO 11



Ext step at kitchen door

PHOTO 12.



Defective render at gable



Render crack-gable/rear - PHOTO 13



Shed - PHOTO 14



Cable extension in kitchen

PHOTO 15



Fuse boxes

PHOTO 16.

PHOTO 17



Light in kitchen

PHOTO 18



Kitchen window



Damp reading-hall wall - PHOTO 19



Damp reading-hall wall - PHOTO 20



Damp reading-hall wall
PHOTO 21



Damp reading-hall wall
PHOTO 22

PHOTO 23.



Damp reading

PHOTO 24



Damp reading in meter cpd



Damp reading - PHOTO 25



Front doorframe seal - PHOTO 26



Living Room window

PHOTO 27



Ground floor hall - smoke alarm

PHOTO 28

PHOTO 29



Main staircase

PHOTO 30



Upper floor landing – smoke alarm



Bathroom window - PHOTO 31



Upper Landing window - PHOTO 32



Bathroom-electric radiator
PHOTO 33.



Velux window
PHOTO 34

PHOTO 35



Attic smoke alarm

PHOTO 36



Attic-electric wiring



Living room-fan light - PHOTO 37



Ground floor bed ceiling - PHOTO 38



Rear ext roof/garage

PHOTO 39



Gas boiler installer

PHOTO 40