



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

prhp Ref: PRHP/RP/15/0155

Re : Property at 6 Salutation House, Carsphairn DG7 3TQ ("the Property")

The Parties:-

Miss Zoe Marshall, 6 Salutation House, Carsphairn DG7 3TQ ("the Tenant")

Ryan Maginess, 32 Masonfield Avenue, Cumbernauld G68 9DU and having a place of business at The Hub, Vicar Street, Falkirk FK1 1LL ("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 Tenant 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 12 May 2015, received on 14 May 2015, 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 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, and
  - (e) 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 10 June 2015, 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 made no further written representation to the Committee other than the original application dated 12 May 2015. The Landlord made no written representations to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 18 August 2015. The Tenant was present during the inspection. The Landlord was not present or represented during the inspection.
7. The Committee comprised George Clark (chairman) and Mike Links (surveyor member).
8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Kenbridge Hotel, Ayr Road, New Galloway, Castle Douglas and heard from the Tenant. The Landlord was not present or represented at the hearing.
9. The Tenant submitted as follows:- there were faulty electrics at the bottom of the stairs and the light at the foot of the stair and the outside light, both controlled from the same light switch point, did not work ; the lino in the kitchen and at the bottom of the stairs was not secured with adhesive to the floor; the cooker hob was not secure; the shower was in the course of being installed when the Tenant viewed the Property but, when she moved in, she discovered that it didn't work, as it was not wired into the fuse box and consequently had no electrical supply; the flue of the central heating boiler was not sealed properly, resulting in kerosene fumes coming back into the Property when the boiler was operating, and the Tenant had had to sleep in the living room, because the bedrooms were too close to the smell; the radiator valve in the main bedroom had become detached and had been refitted by the Tenant; the floorboards in the hallway were not properly fixed down; and there was no heat detector in the kitchen. The Tenant had been asking the Landlord to carry out the necessary repairs since 16 March 2015, but at first he said he was waiting for his electrician to give him a date and time for inspecting and carrying out works, then he said he had been blocked from doing the repairs as the Tenant was in arrears of rent. The Tenant had never been in arrears, but she had received a Rent Penalty Notice from Dumfries and Galloway Council, served on the Landlord on 7 July 2015, stating that "no rent or other charges can be collected from tenants or occupants in the property specified above" (the property specified in the Notice being Flat 6, Salutation House, Carsphairn, Castle Douglas DG7 3TQ). The Landlord had been given 21 days from 8 July 2015 within which to lodge an appeal and the Notice advised the Landlord that he should notify the tenant of the appeal as soon as is practicable after lodging any appeal. The Tenant had not received notice of such an appeal by the Landlord.
10. The Landlord made no submission to the Committee in advance of the hearing and was not present or represented at the hearing.
11. The file of photographs of the Property taken at the inspection is attached to and forms part of this Statement of Decision.

#### **Summary of the issues**

12. 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**

13. The Committee finds the following facts to be established:-
  - The tenancy is an assured tenancy

- The Property is a first floor flat in a converted building and comprises a private entrance with stair leading to a hall, living room, two bedrooms, kitchen, bathroom and boiler room.
- The weather on the date of the inspection was warm and sunny.
- There is a double gang on/off light switch in the hall. The left rocker switch operates the hall light at first floor level and is working. The right hand rocker switch should operate both the outside light and the hall light at ground floor level. Despite the Tenant previously changing the bulbs, these lights did not come on at the inspection.
- The vinyl floor covering in the kitchen and in the ground floor hallway is not attached to the floor.
- The cooker hob is not attached to the worktop in which it is set.
- The Committee tested the Triton Cara power shower and it did not operate, as the power switch did not appear to be connected to the electricity supply. There is a loose cable in the electrical consumer unit in the downstairs hall, which may be the cable which, when connected, would supply power to the shower.
- The central heating boiler, which also heats the water in the Property, was not switched on at the time of the inspection, but the Committee detected a smell of kerosene in the boiler cupboard, and the plasterwork surrounding the pipe connector to the boiler is rough and uneven.
- The thermostatic valve on the radiator in the main bedroom was attached at the time of the inspection, but could not be tested as the central heating system was switched off.
- There is some unevenness in the flooring in the hallway of the Property. This did not form part of the application, but the Tenant pointed it out at the inspection and the Committee merely brings it to the Landlord's attention.
- There is a hard wired smoke detector in the hall, but there is no smoke detector in the living room, no heat detector in the kitchen and no carbon monoxide detector in the Property.

#### **Reasons for the decision**

14. The Committee was concerned that one of the light switches was not working and that, consequently, the outside light and the light in the lower entrance hall were not able to be switched on. This had health and safety implications for anyone entering or leaving the Property during the hours of darkness and raised questions about the safety of the electrical installation. The vinyl flooring in the kitchen and the lower hallway is not attached by adhesive to the floor, but the Committee was not of the view that this presented a tripping hazard. There are clear health and safety implications of the hob not being attached to its worktop inset. The Tenant rented the Property on the understanding that there would be a fully operational shower and is, therefore, entitled to that facility. The Committee was, in any event, concerned that there was a loose cable in the electrical consumer unit. The label attached within the consumer unit indicated that it had not been inspected or serviced since 2001. The Committee was also concerned about the safety of the central heating installation, as there was a noticeable smell of kerosene in the boiler room even with the system turned off. It was also not acceptable that the Tenant had to sleep in the living room to avoid being troubled by the smell. The Committee was unable to determine whether the thermostatic valve on the radiator in the main bedroom was working, but was of the view that it should be checked when the system is being inspected in compliance with the Order in respect of the boiler. The Committee would recommend that the Landlord carries out the necessary minor work to make the floorboards secure. The smoke detection system within the Property requires to be upgraded to comply with The Scottish Government's revised statutory guidance on the requirements for smoke alarms in private lets and the revised Domestic Technical Handbook guidance notes, which states that there should be one functioning smoke alarm in the room which is frequently used for general daytime living purposes, one functioning smoke alarm in every circulation space, such as hallways and landings and one heat alarm in every kitchen and that all alarms should be interlinked. There should be

at least one alarm on each floor. The Committee also recommends that a carbon monoxide detector is installed in the boiler room of the Property.

**Decision**

- 15. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
- 16. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
- 17. The decision of the Committee was unanimous.

**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.

G CLARK

Signed .....  
Chairperson

..... Date 18 August 2015 .....



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0155

Re : Property at 6 Salutation House, Carsphairn DG7 3TQ ("the Property")

Land Certificate Number: KRK10261

The Parties:-

Miss Zoe Marshall, 6 Salutation House, Carsphairn DG7 3TQ ("the Tenant")

Ryan Maginess, 32 Masonfield Avenue, Cumbernauld G68 9DU and having a place of business at The Hub, Vicar Street, Falkirk FK1 1LL ("the Landlord")

### NOTICE TO

#### RYAN MAGINESS ("the Landlord")

Whereas in terms of their decision dated 18 August 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 and in particular that the landlord has failed to ensure that:-

- (a) the Property is wind and water tight and in all other respects reasonably 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) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order, and
- (e) the Property 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:-

1. To obtain and exhibit to the Committee an Electrical Installation Condition report in respect of the Property.
2. To instruct suitably qualified electrical and plumbing contractors to complete the installation of the Triton Cara power shower in the bathroom.
3. To instruct a suitably qualified central heating specialist to prepare a report on the central heating system in the Property, including thermostatic valves. The report must, in particular, include confirmation as to whether the boiler is in proper and safe working order, is adequately vented and whether the flue to the external wall of the Property is properly sealed. Any remedial work recommended in the report must be carried out, by suitably qualified tradesmen.
4. To carry out such works as are necessary to bring the system within the Property for detecting fires and for giving warning in the event of fire or suspected fire up to the standard recommended in the Scottish Government's revised statutory guidance for smoke alarms in private lets and to the standard set out in the revised Domestic Technical Handbook.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of four weeks 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 executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade, on 18 August 2015, before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

Valerie Clark witness

George Barrie Clark chairman