



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

PRHP/RP/15/0159

Title Number: DMF22526

Re: The residential dwellinghouse at

**The Knowe Farmhouse
The Knowe Estate
Kirkconnel
Sanquhar
Dumfries
DG4 6NN**

("the Property")

The Parties:-

Mr Barry Parker and Mrs Agnes Parker

residing at the Property

("the Tenants")

and

**Inkersall Investments Ltd
Challenge House
46 Nottingham Road
Mansfield
Nottinghamshire
NG18 1BL**

("the Landlords")

The Committee comprised:

**Mr Ron Handley – Chairperson
Mr Mike Links – Surveyor**

The Committee's Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords had complied with the duty imposed by Section 14(1) (b) of the Housing (Scotland) Act 2006 ("the Act") in relation to

the Property, and taking account of the evidence before it, unanimously determined that the Landlords had failed to comply with the duty imposed by Section 14(1) (b).

Background

1. On 20 May 2015 the Tenants applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlords had failed to comply with the duties imposed by Section 14(1) (b) of the Act.
2. On 18 June 2015 the President of the PRHP referred the application to the Committee.

The Application

3. In their application the Tenants alleged that the Landlords had failed to comply with the duty to ensure that the Property met the Repairing Standard (as defined in the Act). It was submitted that:
 - the Landlords had failed to ensure that the Property was wind and water tight and in all other respects reasonably fit for human habitation;
 - the structure and exterior of the Property (including drains, gutters and external pipes) were not in a reasonable state of repair or in proper working order;
 - the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water were not in a reasonable state of repair or in proper working order;
 - the Property did not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
4. In particular it was submitted:
 - the Landlords had not instructed a qualified or certified electrician to check the wiring within the Property;
 - there was no light in the upstairs bathroom;
 - there was dampness in the kitchen wall;
 - the backdoor should be replaced;
 - the front door required to be repaired;
 - there was an excessive draught from all the doors within the Property;
 - the nest and ash container in the coal fire in the living room were in a poor state of repair;
 - that when the coal fire in the living room was used, smoke would come from the chimney stack and the gable wall;
 - that when the coal fire in the downstairs bedroom was used, smoke would come through the roof;
 - there were problems with some of the windows;

- the tenant in a neighbouring property had been involved in criminal activities which had impacted on the Tenants.

The Evidence

5. The Committee had before it a bundle of documents which included Land Register documents, a copy of the Tenancy Agreement between the Tenant and the Landlords, a copy of the Application Form, copies of various e-mails and letters and written submissions on behalf of both parties.

The Inspection

6. The Committee inspected the Property at 10.00 hrs on 17 August 2015. The Tenants were present at the inspection as was Mr Woodcock on behalf of the Landlords. The Committee reminded the Tenants that it could only take account of the issues as detailed in the application (and which had been duly intimated to the Landlords).

The Hearing

7. A Hearing was arranged to take place after the inspection at 11.00 hrs in the offices of Dumfries and Galloway Customer Services, 100 High Street, Sanquhar. The Tenants attended the Hearing as did Mr Woodcock.

Summary of the issue

8. The issue to be determined by the Committee was whether the Landlords had complied with the requirements of the Act to ensure that the Property met the Repairing Standard.

Findings

9. The Committee found the following facts to be established:
 - The Property is a two storey dwelling house. The Property has oil fired central heating.
 - On 25 April 2014 the Tenants and the Landlords entered into a Tenancy Agreement that related to the Property.
 - The installations within the Property for the supply of electricity are in a reasonable state of repair and are in proper working order.
 - The light in the upstairs bathroom is in proper working order.
 - There is dampness in the kitchen wall (gable end).
 - Since the date of the Tenant's application, the backdoor has been replaced and is in proper working order.

- The storm door leads into a small porch and a further door from the porch leads into the main hallway of the Property. The storm door is in a reasonable state of repair.
- The internal doors within the Property are in a reasonable state of repair and are in proper working order.
- Since the date of the application a new flue liner has been installed in the coal fire in the lounge. A new nest and ash bucket have been provided by the Landlords. A number of fire bricks have been removed from the fireplace and require to be replaced before the fire can be used.
- Since the date of the Tenants' application, works have been carried out to the coal fire in the downstairs bedroom. The coal fire is in a reasonable state of repair and in proper working order.
- Since the date of application the windows within the Property have been replaced and are in proper working order.
- There are three hard wired smoke detectors within the Property. They are all in proper working order.

Reasons for the Decision

10. At the Hearing the Tenants told the Committee that they considered that their electricity bills were excessive. The Committee had before it a report from Future FEC Ltd confirming that a full inspection of the electrical system within the Property had been carried out on 31 July 2015 and that "all was in good working order". The Committee had no reason to doubt otherwise. The electricity bills (of around £800 per year) may have been as a result of the use of electrical appliances within the Property.
11. In the course of the Hearing the Tenants accepted that the light in the upstairs bathroom had been repaired was in proper working order. This was consistent with the observations of the Committee in the course of the inspection.
12. In the course of the inspection the Committee noted that there was dampness in the kitchen wall (the gable end wall of the Property). The dampness was confirmed by measuring the levels of dampness using a Protimeter. At the Hearing Mr Woodcock accepted that there was dampness within the wall.
13. The Committee noted that back door to the Property has been replaced and found that it was in a good state of repair and in proper working order.

14. As indicated, the storm door at the front of the Property leads into a small porch area with a further door leading from the porch into the main hallway of the Property. The storm door is made of wood and is likely to be the original door. There is a rubber seal around the door – the seal is in a reasonable state of repair. In the course of the inspection the Tenants drew the attention of the Committee to the bottom of the storm door and suggested that when it was raining, water ingresses to the porch area from under the door. The Committee found that there was no significant gap between the storm door and the tiled flooring in the porch. Taking account of the age, character and location of the Property, the Committee concluded the storm door was in a reasonable state of repair.
15. The internal doors within the Property are likely to be the original doors and, taking account of the age, character and location of the Property, the Committee concluded the internal doors were in a reasonable state of repair and in proper working order
16. It was accepted by the Tenants at the Hearing that works had been carried out to the coal fire in the living room. These works included the installation of a flue liner and the provision of a new ash box and grate. The Committee noted that a number of fire brick had been removed and require to be replaced. This was not an issue which was raised in the application form and consequently the Committee considered that it was not appropriate to give consideration to this matter. However Mr Woodcock acknowledged that the fire bricks would have to be replaced.
17. The Tenants confirmed at the Hearing that since they made their application to the PRHP, remedial works have been carried out to the fire in the downstairs bedroom. They accepted that the fire was in proper working order.
18. In the course of the inspection the Committee observed that all the windows in the Property had been replaced with new wood windows. The Committee accepted that they were in proper working order.
19. The Tenants accepted at the Hearing that there were three hard wired smoke detectors within the Property. They are all in proper working order.
20. As indicated, it was stated in the Application Form that the Tenants had had experienced difficulties with neighbour(s) in the past and that the police had been involved. The Committee concluded that this was indeed a police matter.
21. The Committee found that the Repairing Standard had not been met and the Committee proceeded to make a Repairing Standard Enforcement Order.

Decision

- 22. The Committee determined that the Landlords had failed to comply with the duty imposed by section 14(1) (b) of the Act.
- 23. The decision of the Committee was unanimous.

Right of Appeal

- 24. A Landlord(s) or Tenant(s) aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63 of the Act

- 25. 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. 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 R HANDLEY..... Date 26 August 2015
Chairperson



**Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee**

PRHP/RP/15/0159

Title Number: DFM22526

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**The Knowe Farmhouse
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NG18 1BL**

("the Landlords")

The Committee comprised:

**Mr Ron Handley – Chairperson
Mr Mike Links – Surveyor**

NOTICE TO THE LANDLORDS

Whereas in terms of their decision dated 26 August 2015, the Private Rented Housing Committee ("the Committee") determined that the Landlords had failed to comply with the duty imposed by Section 14(1) (b) of the Housing (Scotland) Act 2006 and had failed to ensure that the Property was wind and watertight and in all other respects fit for human habitation.

The Committee now requires the Landlords to carry out such works as are 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 Committee requires the Landlords to carry out an inspection of the kitchen wall (the gable end wall) to identify the source of dampness and to carry out such works as are necessary to eradicate dampness.

The Private Rented Housing Committee orders 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 this and the preceding page are subscribed by Ronald G Handley, Solicitor and Chairperson of the Committee at Dunbar on 26 August 2015 before this witness:-

<u>J HANDLEY</u>	<u>R HANDLEY</u>
Witness	Chairperson
<u>JANE HANDLEY</u>	Name in full
<u>LESLIE WAY, Dunbar</u>	Address of witness
<u>EAST LOTHIAN</u>	
<u>COLLIER MANAGER</u>	Occupation