



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp ref: RP/15/0193

**Re Polfern, Craigdews, New Galloway Road, Newton Stewart, DG8
7BL ('the Property')**

The Parties:-

Mrs Margaret Wood, residing at the Property ("The Tenant")

**Gauld Properties Limited, 22 Milnpark Street, Glasgow, G41 1BB
('The Landlord')**

NOTICE TO Gauld Properties Limited (SCO74925)

Whereas in terms of their decision dated ///November 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, in terms of Section 13 of the said Act to ensure that the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state or repair and in proper working order, 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, that 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 that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire; Now Therefore the Private Rented Housing Committee requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the Property meets the repairing standard in terms of the Act and that any damage caused by the carrying out of any work in terms of this Order is made good.

The Property is the dwellinghouse known as Polfern, Registered in the Land Register of Scotland under **Title Number KRK1539**

In particular the Private Rented Housing Committee requires the following:

**(One) The Landlord is to repair or replace the external render where there is exposed brickwork, cracking and bossing.
(Section 13(1) (b) of the Act).**

(Two) The Landlord is to replace the kitchen sink and base unit (Section 13 (1) (d) of the Act).

(Three) The Landlord is to replace the cold water tank situated in the loft and repair or replace any associated pipework where necessary (Section 13 (1)(c) of the Act).

(Four) The Landlord is to repair the living room fire so that it can be used effectively and safely. (Section 13(1) (c) of the Act).

(Five) The landlord is to replace the Rayburn Stove with a suitable appliance or appliances to provide space heating to the house and heating of water. Such appliance or appliances require to be able to be used safely and effectively. (Sections 13(1) (c) and 13(1) (d) of the Act).

(Six) The Landlord is to install appropriate interlinked heat and smoke alarms to comply with the requirements of the revised Domestic Technical Handbook issued by Scottish Government's Building Standards Division (Technical Handbooks 2013:- Domestic-Fire) (Section 13(1) (f) of the Act).

The committee determined that the work requiring to be done in terms of the repairing standard enforcement order must be completed within twenty eight days of service of the repairing standard enforcement order.

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.

M MCALLISTER

Signed..... Date 3RD November 2015
Martin Joseph McAllister
Chairperson

P SINCLAIR

.....witness: Paula Sinclair, Paralegal, 51 Hamilton
Street, Saltcoats



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

prhp ref: RP/15/0193

**Re Polfern, Craigdews, New Galloway Road, Newton Stewart, DG8 7BL
(‘the Property’)**

The Parties:-

Mrs Margaret Wood, residing at the Property (‘The Tenant’)

Gauld Properties Limited, 22 Milnpark Street, Glasgow , G41 1BB (‘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) of The Housing (Scotland) Act 2006 (‘the 2006 Act’) in relation to the Property, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the 2006 Act and made a repairing standard enforcement order in terms of Section 24(2) of the said Act.

Background

1. By application dated 26TH June 2015 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the 2006 Act.
2. The application by the Tenant stated that she considered that the Landlord has failed to comply with his duty to ensure that the Property meets the repairing standard. She contended that the structure and exterior of the house (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order; that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in

proper working order; that fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order and that the house does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

3. In particular the application stated that:-

- 3.1 External render is missing in places.
 - 3.2 The water tank in the loft is leaking.
 - 3.3 Fire bricks in the living room fireplace require to be replaced.
 - 3.4 The Rayburn stove in the kitchen requires to be replaced.
 - 3.5 There is a crack in the chimney of the Rayburn stove.
 - 3.6 The kitchen sink requires to be replaced.
 - 3.7 There are battery smoke detectors.
4. 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. The Committee comprises of Martin McAllister (Chairperson) and Carol Jones (Surveyor Member).
5. The Private Rented Housing Committee served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant, dated 11 September 2015. In the Minute of Decision in respect of this Notice of Referral, the President of the Private Rented Housing Panel determined that the paperwork comprising the application to be those documents received between 30th June 2015 and 30th July 2015.
6. The Committee attended at the Property on 27th October 2015 for an inspection. The Tenant was present and was unaccompanied. The Landlord was not present. The Property is a detached bungalow with living room, kitchen, bathroom and three bedrooms. It is located in a rural location around 8 miles north-east of Newton Stewart and is constructed of brick/roughcast with a pitched and hipped slated roof. The Property is not served by mains electricity and has a diesel powered generator. A schedule of external and internal photographs is attached to this Determination. The committee found the following:-

7. Inspection

- 7.1 There is missing render on the front, rear and side elevations where there is exposed brickwork. There is extensive evidence of bossed and cracked render.
- 7.2 The committee examined the cold water tank in the loft and found evidence that it is leaking.
- 7.3 There is an open fireplace in the living room which has missing and damaged firebricks.

7.4 The Rayburn stove is old. There is a crack in its casing. There are missing firebricks. Because of the poor condition of the stove there is an opening between an oven and that part of the stove where fuel is burnt. There is a separate Calor gas cooker.

7.5 There is a crack in the flue pipe leading from the Rayburn stove in that part of the flue which is in the kitchen.

7.6 The kitchen sink and base unit is in poor condition. The sink is not level and the drawer and doors are swollen and damaged and cannot be operated properly

7.7 There are no heat or carbon monoxide detectors in the property. There is a battery smoke detector in the living room and two battery smoke detectors in the hallway. The smoke detectors are not interlinked.

8. The Hearing

Following the inspection, a Hearing took place at the Crown Hotel, Newton Stewart. The Tenant was present and gave evidence. The Landlord was not present.

9. The Issues

Sections 13(1)(b),(c),d) and (f) of The Housing (Scotland) Act 2006 provide that the structure and exterior of the house (including drains, gutters and external pipes) are to be in a reasonable state of repair and in proper working order, 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, that 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 that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

The Committee had before it the application.

10. Preliminary Matters

The Tenant advised that she had lived in the Property since 1981 when her now deceased husband entered into a lease with the Forestry Commission. In 1999 the Property was purchased by Gauld Properties Limited. The tenant said that the current rent payable is £6840.

11. Committee's Findings in Fact

11.1 There is missing, cracked and bossed render to all elevations.

11.2 The cold water tank in the loft is leaking.

11.3 The living room fireplace has missing firebricks and cannot be used effectively or safely.

11.4 The Rayburn stove has missing firebricks, is not fit for purpose and cannot be used effectively or safely.

11.5 The flue pipe of the Rayburn stove has a crack through which smoke escapes.

11.6 The kitchen sink and base unit is not fit for purpose.

11.7 There are three functioning battery operated smoke detectors in the Property which are not interlinked. There is no heat detector and no carbon monoxide detector.

12. Evidence and Reasons

12.1 The Committee noted on inspection that there are defects to the render of the Property. Cracks were observed and there are large sections of render missing where brickwork is exposed. Render is bossed in various places. The Tenant said that she has been told by a builder instructed by the Landlord that he plans to come to the Property within the next few weeks to see what jobs need doing but she is not sure what will be done following upon this visit and she does not know if it is planned to carry out repairs to the render.

12.2 The Tenant said that she has never been in the loft but had been told by a tradesman who has been in the loft that the cold water tank is leaking. She had been told that there are pinholes in the tank. The tenant said that there has been no water leaking through the ceiling. The Tenant said that she reported the leak to the landlord in February 2015. The Committee noted on inspection that the water tank is leaking.

12.3 The Tenant said that she arranged for someone from Scottish Fire and Rescue to carry out safety checks to the Property and that this was done in February 2015. She said that a report was prepared but that she never got a copy of it. She said that she was told by Scottish Fire and Rescue that the Landlord had been sent a copy of the report. She said that she thought that the builder who she has been told will be visiting the Property may be looking at issues raised in the Report but she did not know for certain.

12.4 The Tenant said that the fire officer had told her that the living room fire had missing firebricks and that she had been told that it would be dangerous to have more than a very small fire. The Tenant said that she had not used the fire since then because she was afraid to do so. The Committee saw that there are firebricks missing from the living room fire.

12.4 The Tenant said that the fire officer had told her that the Rayburn stove also had missing fire bricks. The Tenant said that she could not use the oven because the missing firebricks meant that smoke permeated into the oven. The Tenant said that the Rayburn is the only method she has to heat water and that the fire officer advised she should only burn a small fire in it for two hours each day so that she can have hot water. The Committee members saw the poor condition of the Rayburn stove and the fact that there are missing firebricks. The Tenant said that she cooks with her Calor gas cooker.

12.5 The Committee observed that the flue leads from the Rayburn stove and through the ceiling of the kitchen. The condition of the flue was seen to be poor and the Tenant said that smoke leaks from a crack in the flue.

12.6 The Tenant said that the generator provides electricity and that it is limited in how much power it can produce. She explained that it provides electric light with no difficulty. She said that she has electric heaters but that she can only use one heater at a time. She said that two heaters being used at the same time would be too great a load for the generator.

12.7 The Tenant said that, when able to be used effectively, the Rayburn stove heated the kitchen, the adjoining living room and also provides heat to the whole house. She said that the stove and the living room fire cannot be used other than the limited use she makes of the stove to heat water. The Tenant said that she was able to use one electric heater because of the issue of the generator.

12.8 The Tenant said that she had understood that the kitchen sink and base unit was to be replaced but that the Landlord had not done this. The Tenant referred to Mr Gauld of Gauld properties Limited and said that she had never met him and that, as far as she knew, he had never visited the Property. She said that five years or so previously Mr Gauld's personal assistant, Joan Johnstone visited the Property, saw the condition of the sink and base unit and told her that she would speak to Mr Gauld about having it replaced. The Committee noted on inspection that the drawer and doors in the sink base unit are damaged and do not operate effectively.

12.9 The Tenant said that she and her husband had provided smoke detectors when they moved into the property and that, over the years, they had been replaced by them when necessary. She said that the Landlord had provided no detectors. The Committee noted on inspection that there are two functioning battery operated smoke detectors in the hallway and one functioning battery operated smoke detector in the living room. They noted that these smoke detectors are not interlinked.

13 Deliberations.

The Committee considered whether or not any defects it found established brought the Property below the repairing standard in terms of the 2006 Act. The Committee found the evidence of the Tenant to be credible and reliable. In respect of the Findings it had made, the Committee considered that a repairing standard enforcement order should be made in respect of some matters.

The members of the Committee accepted the evidence of the Tenant that, at some point after February 2015, the Landlord would have received the report of Scottish Fire and Rescue highlighting issues with the Rayburn stove and living room fire. The members of the Committee were surprised that no action had been taken to resolve the issues. The absence of the ability to properly use the living room fire and Rayburn stove means that the Tenant's option to heat the Property is extremely limited. The property is provided with an open fire in the living room and a Rayburn stove, neither of which can be used effectively. Because of the limitations of the generator, the Tenant's alternative options to heat the Property are restricted to use of one electric heater. It would seem reasonable that the Landlord would have been aware of this and taken steps to deal with the defects.

The external render requires to be repaired. Failure to do so will lead to further deterioration of the Property which will adversely affect the Tenant.

The Committee does not consider it appropriate for there to be a leak in the water tank.

The Committee considered that the kitchen sink and base unit require to be replaced. It accepted the Tenant's evidence that the Landlord had been aware of its condition for five years.

The Property does not comply with current regulations in relation to smoke detection. There should be a smoke alarm in the room frequently used by the Tenant for general living purposes and a smoke alarm in every circulation space, such as hallways and landings. The guidance is that such detectors should be interlinked. The Committee was satisfied by the evidence of the Tenant that she and her husband had supplied the existing smoke detectors and that none had been supplied by the Landlord. The Committee had regard to the fact that all detectors fitted after 3rd September 2007 require to comply with the relevant guidance being Scottish Government Building Standards Division (Technical Handbooks 2013: Fire). It had no evidence as to when the current detectors had been replaced but since battery smoke detectors have a life of five to ten years it seems reasonable that the Property should comply with current guidelines. The Committee also noted that the law in relation to carbon monoxide detection and alarm changes on 1st December 2015 and it considered that any responsible Landlord would take note of this and carry out any necessary work in advance of that date. The Committee accepted that the Property is not served by mains electricity but took the view that that it is for the Landlord to find a technical solution to ensure that the Property complies with

the relevant guidelines. The Committee considered that this may be something upon which the Landlord will require to take specialist advice.

The Committee considered that the work should be completed within twenty eight days of service of the repairing standard enforcement order. In coming to its determination on this timescale the Committee had regard to the particular circumstances of the Property and the fact that the Tenant did not have an effective means of heating it. It also considered that the Landlord should have taken steps to deal with the heating issue before now.

Decision

The Committee accordingly determined that the Landlord has failed to comply with the duties imposed by Section 14(1)(b), of the Act, as stated.

The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) and 24(2) of the 2006 Act in the following terms:

**(One) The Landlord is to repair or replace the external render where there is exposed brickwork, cracking and bossing.
(Section 13(1) (b) of the Act).**

(Two) The Landlord is to replace the kitchen sink and base unit (Section 13 (1) (d) of the Act).

(Three) The Landlord is to replace the cold water tank situated in the loft and repair or replace any associated pipework where necessary (Section 13 (1)(c) of the Act).

(Four) The Landlord is to repair the living room fire so that it can be used effectively and safely. (Section 13(1) (c) of the Act).

(Five) The landlord is to replace the Rayburn Stove with a suitable appliance or appliances to provide space heating to the house and heating of water. Such appliance or appliances require to be able to be used safely and effectively. (Sections 13(1) (c) and 13(1) (d) of the Act).

**(Six) The Landlord is to install appropriate heat and smoke alarms to comply with the requirements of the revised Domestic Technical Handbook issued by Scottish Government's Building Standards Division (Technical Handbooks 2013:- Domestic-Fire)
(Section 13(1) (f) of the Act).**

In view of the nature of the failure to meet the Repairing Standard as defined in the 2006 Act, the committee determined that the repairing standard enforcement order requires to be completed within twenty eight days of service of the repairing standard enforcement order.

Right of Appeal

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.

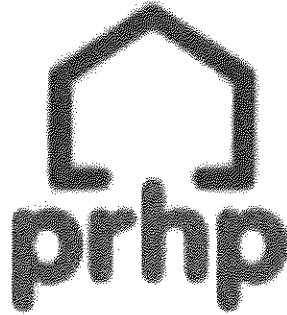
Effect of section 63

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.

M MCALLISTER

Signed
Martin J. McAllister
Chairperson

..Date 3rd November 2015

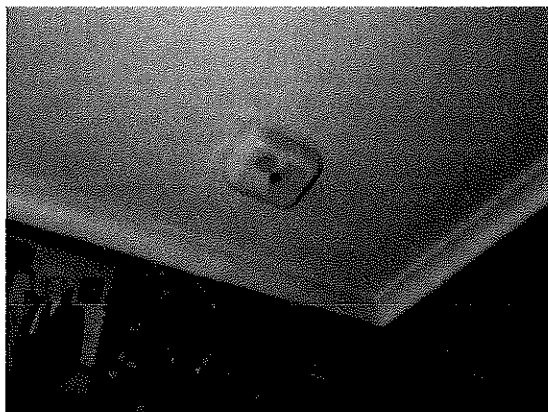


206/2011

Schedule of photographs taken during the inspection of Polfern Cottage, New Galloway
Road, Newton Stewart DG8 7BL
by the Private Rented Housing Committee on the 27 October 2015.



External view of property taken from roadside

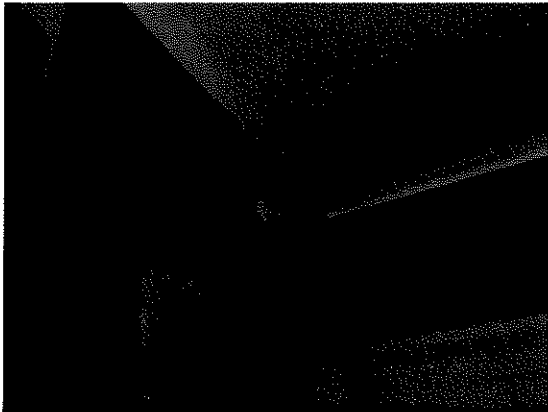


Battery Smoke Alarm (1) - Hall

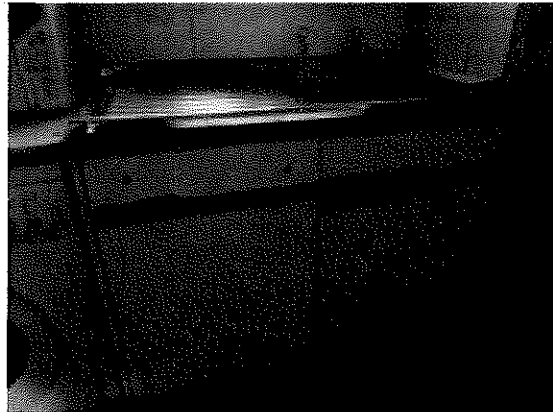


Battery Smoke Alarm - Living Room

McLester



Battery Smoke Alarm (2) - Hall



Kitchen Sink/Base unit



Rayburn in Kitchen



Flue pipe to Rayburn in Kitchen



Interior of open fire showing fire bricks in Living Room

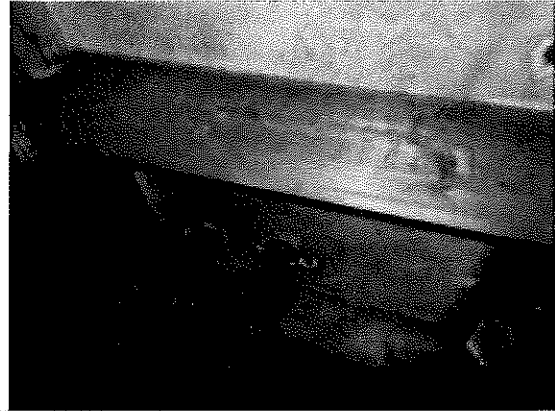


Interior of open fire showing fire bricks in Living Room

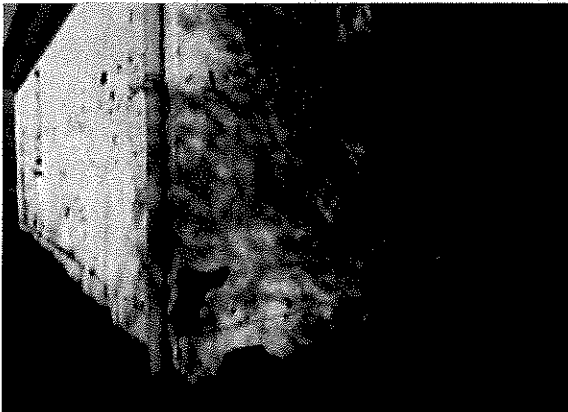
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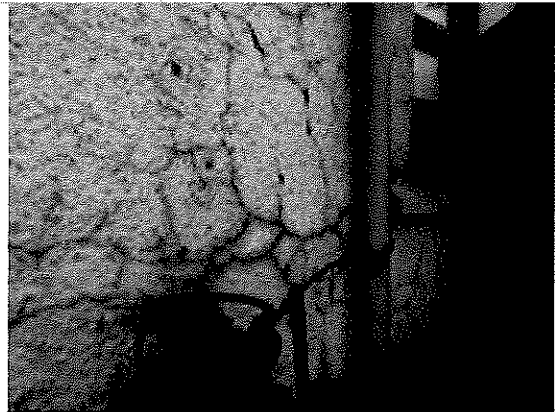
Cold Water Storage Tank in Loft



Cold Water Tank in Loft (view from below)



Front Elevation



Rear Elevation



Rear Corner on Hip End



Front Elevation