



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: prhp/rp/15/0245

Re : Property at 15 Bank Street, Wigtown, Newton Stewart DG8 9HR ("the Property")

Sasine Description: All and Whole that house and yard Number 15 Bank Street, Wigtown in the County of Wigtown, described in Disposition in favour of Andrew Pagan Templeton, recorded in the Burgh Register of Wigtown (now the General Register of Sasines applicable to the County of Wigtown) on 13 August 1923.

The Parties:-

Kerry Johnstone and Mr Gordon McClymont, both residing at 15 Bank Street, Wigtown, Newton Stewart DG8 9HR details ("the Tenant")

Mrs Amy Dill and Mr Robert Dill, both residing at 15 Lochancroft Lane, Wigtown, Newton Stewart DG8 9HZ ("the Landlord")

NOTICE TO MRS AMY DILL AND MR ROBERT DILL ("the Landlord")

Whereas in terms of their decision dated 11 January 2016, 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 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,

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 exhibit to the Committee an Electrical Installation Condition Report from a suitably qualified and registered electrician in respect of the Property and to carry out all remedial works recommended in the Report.
2. To replace the missing section of kick plate in the kitchen of the Property.
3. To carry out such repairs as are necessary to properly secure the power point in the living room of the Property and to replace or repair the cooker socket in the kitchen and ensure it is adequately sealed.
4. To have a suitably qualified roofing contractor inspect and repair all rainwater goods at the Property, including gutters and downpipes, to ensure all are secure and in proper working order.
5. To have a suitably qualified roofing contractor repair or replace all missing and slipped slates and clean off vegetation growth on the roof of the Property and carry out such works as are necessary to ensure that smoke cannot escape from cracks in the chimney stack.
6. To carry out such remedial work as is required to ensure the radiator in the back bedroom of the Property is in proper working order.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of six 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 11 January 2016, before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

Valerie Clark witness

George Barrie Clark chairman



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

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Re : Property at 15 Bank Street, Wigtown, Newton Stewart DG8 9HR ("the Property")

The Parties:-

M/s Kerry Johnstone and Mr Gordon McClymont, both residing at 15 Bank Street, Wigtown, Newton Stewart DG8 9HR details ("the Tenant")

Mrs Amy Dill and Mr Robert Dill, both residing at 15 Lochancroft Lane, Wigtown, Newton Stewart DG8 9HZ ("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 28 August 2015 and received on 2 September 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 or sanitation, space heating and heating water are in a reasonable state of repair and in proper working order, and
 - (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,
3. By letter dated 16 October 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. The Landlord (by letter dated 3 December 2015), made written representations to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 11 January 2016. The Tenant was present during the inspection. The Landlord was neither present nor represented at the inspection.
7. The Committee comprised George Clark (Chairman) and Carol Jones (surveyor member).
8. A file of photographs taken by the surveyor member at the inspection is attached to and forms part of this Statement of Decision.
9. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The McMillan Centre, Dashwood Square, Newton Stewart DG8 6EQ and heard from the Tenant. The Landlord was neither present nor represented at the hearing.
10. The Tenant, in the application, submitted as follows:- The wind was coming through the cooker socket, guttering was held on by cables, there were slates missing on the roof, allowing water to enter the Property, there was damp in the back bedroom due to missing slates and there were loose plug fittings. The Tenant also intimated additional issues in a landlord's notification letter dated 10 September 2015 relating to a cracked chimney stack, draughty windows and the kick boards in the kitchen allowing draughts in. At the hearing, the Tenant expanded on the issues in the complaint. The Tenant was very concerned that if the wind was getting in to the cooker socket from outside, it might also let in water, although there was no sign of water ingress as yet. There was a missing portion of kick plate beneath one of the kitchen units, which caused draughts. The Landlord had asked the Tenant to obtain an estimate, but had refused to carry out the repair work when the Tenant had provided the estimate. There was a loose plug fitting in the sitting room and on occasions the fitting would move when a plug was being taken out of the socket, causing the television to go off. The guttering at the rear of the Property above the kitchen extension was only held on by cables. In high winds it banged against the wall and roof and rainwater ran out of it straight to the rear entrance area beneath. The roof was in a very bad state and the Tenant had asked the Landlord to ensure that it was attended to during the summer months, before bad weather set in, but again the Landlord had refused to accept an estimate that had been obtained by the Tenant and had not carried out the necessary work to make the Property wind and water tight. There was a crack in the chimney and, following on a minor chimney fire, the Tenant had been told by the Fire Brigade that smoke was escaping from the side of the chimney stack and the base of the chimney stack. There was damp in the back bedroom as a result of missing slates on the rear portion of the roof.
11. At the hearing, the Tenant commented on the landlord's written representations. The Tenant accepted that the kitchen window and back door had been replaced and that some electrical repairs had been carried out (although not to the loose plug fitting in the sitting room), but these were not the matters about which the Tenant had complained in the present application. The Tenant also categorically denied the allegation in the Landlord's written submissions that the purpose of the complaint was to enable the Tenant to obtain a council house from the local authority. M/s Johnstone and Mr McClymont told the Committee that they very much wanted to remain in the Property, but the Landlord must carry out necessary repairs, particularly to the roof.
12. The Landlord, in the letter dated 3 December 2015, submitted as follows:- An electrician had been sent to the Property to do any repairs that the Tenant pointed out to him. Kick boards were not normally put in to keep out draughts, more to prevent things from going under the kitchen units. He had agreed that Mr McClymont could

have the problem fixed and send the Landlord the bill. The Landlord was not refusing to replace the roof. An estimate of over £3000 had been obtained and the Landlord had said he would need time to get the money together. The Landlord had not known at that time about water coming in through the roof. The main concern of the Tenant had been slates falling off and hitting the Tenant's car. The joiner who had previously repaired the loose slates had indicated that at some point the roof would have to be replaced, as the nail holes in some of the slates were wearing, but that this was not necessary right away and the worst of it had been repaired. Both back roof sections had recently been replaced. The Landlord had never said the roof would not be replaced. It was a question of waiting until the Landlord had found the funds and until the weather improved. The Landlord's impression was that it did not matter how much work was done, the Tenant would never be happy, as the real intention was that the Tenant wanted to be rehoused by the council.

Summary of the issues

13. 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

14. The Committee finds the following facts to be established:-
 - The tenancy is a Short Assured Tenancy, which commenced on 2 December 2013.
 - The Property comprises a traditional one and a half storey terraced dwellinghouse, built of stone with a slate roof. It has a rear single storey kitchen extension with a roughcast exterior and a flat felt roof.
 - The cooker socket is cold to the touch and there is a gap around it where it is set into the surrounding tiles. Whilst it appears to be in working order at present and there is no evidence that it is letting in water, the socket moves when pressure is applied to it and it looks unsafe. There is evidence of green moss growth running the full height of the rendered external wall behind the location of the socket.
 - The power socket in the sitting room of the Property is loose.
 - There is a portion of kick plate missing beneath one of the kitchen units. The Tenant has installed a makeshift section of former kitchen unit shelving to cover the space as a temporary measure.
 - The radiator in the back bedroom of the Property is not functioning properly. This room has a dormer window, it is extremely cold and there is extensive black mould on several of the walls. There was, however, no evidence at the time of the inspection of penetrating dampness. There is a stain on the ceiling from a past roof leak which has been repaired. The Committee is of the view that the defective radiator and a lack of regular ventilation has caused condensation to build up in the room.
 - The rainwater goods to the rear of the Property are held on by cables, which are, in turn, attached around the soil pipe leading from the bathroom.
 - The roof of the Property is in poor condition. There is a crack in the chimney stack and the roof to the front of the Property has widespread moss and vegetation growth on it, with a number of slipped and missing slates.
 - The windows in the Property are a mixture of timber and PVC double glazing units. They appear to be in a reasonable state of repair.

Reasons for the decision

15. The Committee was concerned that there were potential safety issues with the cooker socket in the kitchen and the socket in the living room. The Landlord had not provided the tenant or the Committee with an Electrical Installation Condition Report and the Committee's view was that the installation for the supply of electricity was not in a reasonable state of repair, so did not meet the repairing standard. The radiator in the

back bedroom does not appear to be in proper working order, making it hard to adequately heat this room, so did not meet the repairing standard. The kick plate in the kitchen was part of the fittings and fixtures and was not in a reasonable state of repair, so did not meet the repairing standard. There is a danger that, in high winds, the cables retaining the rainwater goods to the rear of the Property may become detached and that this may also cause damage to the soil pipe. Consequently, the structure and exterior of the Property is not in a reasonable state of repair and does not meet the repairing standard. There is vegetation growth on the roof of the Property and a number of slipped and missing slates, in addition to the crack in the chimney. Accordingly, the Property is not wind and water tight and does not meet the repairing standard. The Committee accepted the evidence given by the Tenant that the Landlord had been aware of the Tenant's desire to have the roof issues sorted before winter weather set in.

Decision

16. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
17. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1). (Delete if not appropriate).
18. The decision of the Committee was unanimous.

Right of Appeal

19. **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

20. 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.

21. Signed **George Barrie Clark** Date... 11 January 2016
Chairperson