



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp ref: RP/15/0306

Re 12 Robertson Crescent, Saltcoats, KA21 5JD being the subjects registered in the Land Register of Scotland under title number AYR 97046 ('the Property')

The Parties:-

Mrs Lorraine Campbell residing at the Property ('The Tenant')

Mr James Alan Hynd and Mrs Kaye Janette Hynd residing at 28 St Andrews Road, Ardrossan, KA22 7EN ('The Landlords')

NOTICE TO

Mr James Alan Hynd and Mrs Kaye Janette Hynd

Whereas in terms of their decision dated 9th February 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 (the Act) in respect of the property known as 12 Robertson Crescent, Saltcoats, KA21 5JD being the subjects registered in the Land Register of Scotland under **Title Number AYR97046** and, in particular, that the Landlord has failed, in terms of Section 13 of the said Act to ensure that the house is wind and watertight and in all other respects reasonably fit for human habitation, that the structure and exterior of the house 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 fier 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.

In particular the Private Rented Housing Committee requires the following:

**((One) The Landlords must ensure that the Property is wind and watertight and eradicate the high levels of dampness throughout the Property.
(Section 13(1) (a) of the Act).**

**(Two) The Landlords must eradicate the penetrating dampness in the bathroom ceiling.
(Section 13 (1) (a) of the Act).**

**(Three) The Landlords must repair or replace the badly fitting PVC double glazed windows in the living room, upper front bedroom and bathroom.
(Section 13(1) (a) of the Act).**

**(Four) The Landlords must repair the patio paving
(Section 13(1) (b) of the Act).**

(Five) The Landlords must install an interlinked heat detector in the Property to comply with the revised Domestic Technical Handbook Guidance in force from 1st October 2015.

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 a period of three months from its service on the Landlords.

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

Martin McAllister

Signed.

Martin Joseph McAllister
Chairperson

..... Date 9th February 2016

Paula Sinclair

Saltcoats

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



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/15/0306

Re 12 Robertson Crescent, Saltcoats, KA21 5JD being the subjects registered in the Land Register of Scotland under title number AYR 97046 ('the Property')

The Parties:-

Mrs Lorraine Campbell residing at the Property ("The Tenant")

Mr James Alan Hynd and Mrs Kaye Janette Hynd residing at 28 St Andrews Road, Ardrossan, KA22 7EN ("The Landlords")

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 11th November 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 Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. The application was accompanied by a note of an inspection by North Ayrshire Council, the applicable local authority, carried out on 12th August 2015 which stated that it is considered that the Property "did not fail the Tolerable Standard." The report did cite various defects including high levels of moisture at various places in the Property, issues with windows, guttering, a downpipe, patio wall, stacked paving bricks, patio step and cracked patio paving.
3. 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 Alex Carmichael (Surveyor Member)
4. The Private Rented Housing Panel served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant on 10th December 2015.
5. The Committee attended at the Property on 2nd February 2016 for an inspection. The Tenant and the Landlords were present. The committee noted that the Property is a semidetached house more fully described in the attached report of the surveyor member of the Committee which also includes photographs. The committee found the following:-

6. Findings on Inspection

- 6.1 Penetrating dampness encountered in the external gable wall of the lounge.
- 6.2. Penetrating dampness encountered on the upper wall and ceiling of the bathroom.
- 6.3 Penetrating dampness encountered in the upper front bedroom.
- 6.4 Penetrating dampness encountered in the upper wall and ceiling of the upper rear bedroom.
- 6.5 Badly fitting windows particularly to the front elevation of the Property. It was noted that tape had been fitted around the window in the upstairs bedroom.
- 6.6 Water ingress around the bathroom window.
- 6.7 No vegetation growth to the rear elevation gutter.

- 6.8 New fixings installed to downpipes at rear elevation.
- 6.9 Cracked paving at patio.
- 6.10 External step from patio doors extends for half the width of the doors.

The Hearing

7. Following the Inspection, a Hearing took place at Ardrossan Civic Centre. The Tenant and the Landlords were present and gave evidence. The Tenant was accompanied by her daughter, Jennifer Campbell.

The Landlords said that some repairs to defects referred to in the Council report had been completed. Mr Hynd said that the decorative wall at the patio had been repaired and the gutter cleared of vegetation. He also said that the downpipe had been connected. The Tenant conceded that these matters had been attended to.

Mr Hynd said that he considered that the installation of external insulation would resolve the issues of the high moisture readings. He said that he had hoped to access a Government scheme to fund this but that this required an application by the Tenant. He said that an inspection for this funding had been arranged but that it had been cancelled by the Tenant. Mrs Campbell said that she had not cancelled the inspection. Mrs Campbell said that she would cooperate in any such application but did express the view that it was for the Landlords to resolve the issues in the Property.

Jennifer Campbell said that the Property is very cold and that she does not know how her brother manages to sleep in the upstairs front bedroom because of the cold and the whistling window. She said that the wind blows in at the windows. The Tenant said that she has tried to minimise the draughts with tape and she said that the wind whistles through gaps at the window.

The surveyor member of the Committee indicated to the parties that the external insulation would not resolve the issues in the bathroom because the bathroom is in the rear extension where there is a felt flat roof.

The Issues

8. Sections 13(1)(a),(b) and (f) of The Housing (Scotland) Act 2006 provide that the Property must be wind and watertight and in all respects reasonably fit for human habitation, the structure and exterior of the house (including drains, gutters and external pipes) be 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 Committee had before it the application and copies of the report by the local authority. The Committee also had written representations of the Landlord dated 22nd December 2015.

8.1 The Local Authority Report.

The report referred to high levels of moisture in the downstairs rear bedroom, the upper rear bedroom and the upper front bedroom. It referred to the bathroom ceiling being affected by water damage and to a poorly fitting window in the bathroom and an issue with the window in the upper front bedroom. The report referred to guttering to the rear having vegetation growing in it and the Tenant reporting that the front guttering overflowing. It also noted the downpipe at the side of the Property being incomplete. The report referred to other repairs being necessary: draughts at living room window reported by the Tenant but not found by the Local Authority officer, plastic clip missing from window in upper rear bedroom, insecure blinds in upper rear bedroom, insecure bricks on decorative patio wall and cracked paving at patio. The report also referred to the Tenant's concerns that the step from the patio doors not extending the full width of the patio doors and monoblock bricks being stacked up against a party wall.

8.2 The Landlords' letter of 22nd December 2015.

The letter stated that, at various times, the Landlords have tried to resolve the issue of high level of moisture readings and have taken advice from trades professionals. The Landlords' Letter states that it was considered that the issues stemmed from the chimney area which served the rooms and that a chimney had been capped. The letter acknowledged that the problems have not been eradicated by this action and that the Landlords want to take advantage of a grant funded scheme to provide external insulation which will require cooperation from the Tenant. The letter stated that the Landlords have requested the Tenant to contact them when the reported whistling occurs at the upper front bedroom window. The letter states that extractor fans have been fitted to the bathroom and that the issues with the patio wall, downpipe repair and vegetation in the gutter will be dealt with prior to the Hearing. The letter states that the cracked paving, laying of decorative bricks and repair of patio and step will be dealt with subject to tradesmen's schedules and weather conditions.

9. The Committee's Findings

9.1 There is no issue concerning vegetation in the gutter to the rear elevation, no evidence was noted of the front gutter overflowing, the downpipe to the rear elevation is securely attached and the decorative wall at the patio is secure.

9.2 There are steps leading from the patio doors which do not extend the full width of the doors.

9.3 There are cracked paving stones at the patio.

9.4 There is evidence of penetrating dampness throughout the property as detailed in the attached report of the surveyor member of the Committee.

9.5 There are badly fitting windows in the upper front bedroom and the living room.

9.6 There is water ingress around the bathroom window.

9.7 There are smoke detectors installed in the Property but no heat detector in the kitchen.

Reasons

10. Observations made at the inspection and evidence of the Landlords, the Tenant and Jennifer Campbell.

11. The Committee considered whether or not any defects it found established brought the Property below the repairing standard in terms of the 2006 Act. In respect of the Findings it had made, the Committee considered that a repairing standard enforcement order should be made. The Committee considered that the level of penetrating dampness throughout the Property was unacceptable. It was for the Landlords to find a solution to this whether or not it is the external insulation proposed. It considered that the windows referred to in the surveyors report require to be attended to and that the cracked patio paving could constitute a trip hazard. The Committee formed the view that the penetrating dampness in the bathroom is possibly caused by a defective flat roof. The Committee considered that a heat detector required to be installed in the kitchen. The Committee considered that, in the particular circumstances of the Property, the fact that the step at the patio doors does not extend for the width of the doors does not, in itself, constitute a failure to maintain the Property to the repairing standard.

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.

12 .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 Landlords must ensure that the Property is wind and watertight and eradicate the high levels of dampness throughout the Property.
(Section 13(1) (a) of the Act).**

**(Two) The Landlords must eradicate the penetrating dampness in the bathroom ceiling.
(Section 13 (1) (a) of the Act).**

**(Three) The Landlords must repair or replace the badly fitting PVC double glazed windows in the living room, upper front bedroom and bathroom.
(Section 13(1) (a) of the Act).**

**(Four) The Landlords must repair the patio paving
(Section 13(1) (b) of the Act).**

(Five) The Landlords must install an interlinked heat detector in the Property to comply with the revised Domestic Technical Handbook Guidance in force from 1st October 2015.

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 a period of three months from its service on the Landlords.

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 of the 2006 Act

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.

Martin McAllister

Signed Date 9th February 2016
Martin J. McAllister
Chairperson