



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Case Reference Number: PRHP/RP/15/0316

Re: 79A Dean Road, Bo'ness, Falkirk EH51 9BA ("the property")

Land Register Title No: WLN2316

The Parties:-

Ms Irene Burt, residing at the property ("the tenant")

**Mrs Margaret Elizabeth Morrison Goodwin, residing at 14 Dundas Street,
Bo'ness, Falkirk EH51 0DG ("the landlord")**

**The committee: – Sarah O'Neill (Chairperson); George Campbell (Surveyor
Member)**

NOTICE TO: Mrs Margaret Elizabeth Morrison Goodwin (the landlord)

Whereas in terms of its decision dated 10 March 2016, the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed on her by Section 14 (1) (b) of the Act, and in particular that the landlord has failed to ensure that the house meets the repairing standard in that:

- the property is not wind and watertight and in all other respects reasonably fit for human habitation.
- 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.

The Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purpose 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 before the date specified in this order.

In particular the Private Rented Housing Committee requires the landlord to:

1. Allow sufficient time for the damp areas within the property to dry out in order to ensure that the property is wind and watertight, and that the roof is in a reasonable state of repair and in proper working order.
2. Carry out the necessary repairs to the structural crack in the outside gable wall to ensure that the wall is in a reasonable state of repair and in proper working order.
3. Once the necessary repairs to the external structural crack have been completed, carry out the necessary internal repairs to the utility room wall to ensure that the wall is in a reasonable state of repair and in proper working order.
4. Once the damp areas have had time to dry out, carry out the necessary repairs to the living room wall to ensure that the wall is in a reasonable state of repair and in proper working order.
5. On completion of the repair works, ensure that all affected finishes and decoration are restored to an acceptable standard.

The Private Rented Housing Committee orders that the works specified in this order must be carried out and completed within the period of **six months** from the date of service of this notice.

Rights of Appeal

A landlord or tenant aggrieved by the decision of the 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 any order made in consequence of it 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 made in consequence of it are to 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.

IN WITNESS WHEREOF these presents typewritten on this and the preceding page are signed by Sarah Frances O'Neill, solicitor, Chairperson of the Private Rented

Housing Committee, at Glasgow on the tenth day of March, Two Thousand and Sixteen before this witness -

Carl Youd witness Sarah O'Neill chairperson

CARL JOHN YOUND name in full

EUROPA BUILDING Address

450 ANGLIC STREET

GLASGOW G2 8UH

CIVIL SERVANT Occupation



Determination by Private Rented Housing Committee

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as “the committee”)

Under Section 24(1) of the Housing (Scotland) Act 2006 (“the Act”)

Case Reference Number: PRHP/RP/15/0316

Re: 79A Dean Road, Bo’ness, Falkirk EH51 9BA (“the property”)

Land Register Title No: WLN2316

The Parties:-

Ms Irene Burt, residing at the property (“the tenant”)

**Mrs Margaret Elizabeth Morrison Goodwin, residing at 14 Dundas Street,
Bo’ness, Falkirk EH51 0DG (“the landlord”)**

**The committee: – Sarah O’Neill (Chairperson); George Campbell (Surveyor
Member)**

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 Act”) in relation to the property, and taking account of all the available evidence, determines that the landlord has failed to comply with the duty imposed on her by Section 14 (1) (b) of the Act. The committee therefore issues a Repairing Standard Enforcement Order. The committee’s decision is unanimous.

Background

1. By application received on 19 November 2015, the tenant applied to the Private Rented Housing Panel ("the panel") for a determination that the landlord had failed to comply with her duties under Section 14(1) of the Act.
2. In her application, the tenant stated that she believed the landlord had failed to comply with her duty to ensure that the property met the repairing standard as set out in section 13(1) (a) and (b) of the Act. Her application stated that the landlord had failed to ensure that:
 - the property is wind and watertight and in all other respects reasonably fit for human habitation
 - the structure and exterior of the house (including drains, gutters and external pipes) is in a reasonable state of repair and in proper working order
3. The tenant made the following complaints in her application form and notification letter to the landlord:
 1. There is water ingress into the kitchen and one bedroom, causing extensive damp, evident in bedding and stored clothing and within the kitchen.
 2. In the utility room, a large hole next to the gas boiler is the source of extreme draughts.
 3. There is an open structural crack from roof to ground allowing water and wind into the internal structure.
 4. Seals on several windows are inadequate to prevent draughts (and water also in the bathroom)
 5. One wall in the sitting room bulges in several areas, and the plaster is crumbling.
 6. The bedroom heating system is inadequate to heat the space.
 7. The dishwasher does not work.
 8. There is a leaking radiator in the sitting room.
 9. The boiler has broken down twice.
4. The tenant stated in her application that the following work required to be carried out at the property:
 - The flat roof requires complete refurbishment.
 - Sitting room, kitchen, bathroom and bedroom walls which are wet/damaged require significant repair.
 - Gaping crack from roof to foundations needs to be addressed.
 - The hole in the utility room needs to be filled.

- Window seals throughout the flat require work to exclude water ingress and draughts.
5. On 14 December 2015, the President of the panel issued a minute of decision stating that she considered that in terms of section 23 (3) of the Act there was no longer a reasonable prospect of the dispute being resolved between the parties at a later date; that she had considered the application paperwork submitted by the tenant, comprising documents received between 4 December 2015 and 14 December 2015; and intimating her decision to refer the application to a panel committee for determination.
 6. The President of the panel wrote to the parties on 30 December 2015, notifying them under and in terms of the 2006 Act of her decision to refer the application under Section 22(1) of the Act to a private rented housing committee and that an inspection and a hearing would take place on 17 February 2016. Written representations were requested by 20 January 2016.
 7. On 6 January 2016, the tenant informed the panel offices by telephone that she had received a notice to quit the property by 7 March 2016. Written representations were received by email from the tenant on 12 January 2016. An email was received from Robert Young, Chief Executive of the Key Place, the landlord's agent, on 12 January requesting an extension to the deadline for submitting representations, due to the large volume of paperwork received and the fact that the letter of 30 December had not been received until 6 January, due to the New Year holiday. He also stated that the landlord had submitted a right of entry application to the panel in respect of the property, and requested a postponement of the inspection and hearing date.
 8. On 24 January, the committee issued a direction to the parties, extending the deadline for submission of representations until 27 January 2016. It also required the landlord to provide: copies of the right of entry application/s which had been made in respect of the property; confirmation as to whether a decision had been made on these; confirmation as to whether a date had been fixed for access; and copies of any further correspondence in connection with the right of entry application/s by 3 February 2016. The direction stated that the committee would consider the landlord's request to postpone the inspection and hearing once it had received the information requested about the right of entry application/s and the parties' written representations. The direction also required the tenant to re-submit some of the documents she had previously sent to the panel, as these were difficult to read.
 9. Extensive written representations, together with various appendices, were received from the landlord's agent on 27 January 2016. The tenant submitted various documents to the panel in response to the direction, which were also

received on 27 January 2016. A response to the direction was received from the landlord's agent on 3 February, enclosing copies of three right of entry applications and associated correspondence.

10. The committee issued a second direction to the parties on 4 February 2016, confirming that it intended to proceed with the scheduled inspection and hearing on 17 February.

The inspection

11. The committee inspected the property on the afternoon of 17 February 2016. The weather conditions at the time of the committee's inspection were dry and overcast. The tenant and her son, Mr Martin Hensman, were also present at the property during the inspection. Mr Robert Young, Chief Executive of the Key Place, and Mr Gus Goodwin, the landlord's husband, were present at the inspection. Photographs were taken during the inspection and are attached as a schedule to this decision.

The property

12. The property is an upper flat within a two-storey detached villa, estimated to be in the region of 100 years old. The property comprises: hallway, living room, kitchen, utility room, two bedrooms and a bathroom. The property was let on a part furnished basis.

The hearing

13. Following the inspection, the committee held a hearing at Linlithgow Burgh Halls, Cross House, Linlithgow, West Lothian EH49 7AH. The tenant was present at the hearing. She was accompanied by Mr Hensman and gave evidence on her own behalf. The landlord was represented by Mr Young and Mr Goodwin, who gave evidence on her behalf.

The evidence

14. The evidence before the committee consisted of:
 - The application form completed by the tenant, together with six additional pages setting out details of her complaint.
 - Registers Direct copy of Land Register title WLN2316
 - Short assured tenancy agreement between the parties in respect of the property dated 7 September 2015, together with form AT5 and tenant information pack acknowledgement form signed by the tenant and the landlord's agent.

- Letter from the Key Place to the tenant dated 6 October 2015.
- Email from the tenant to the Key Place setting out some of her complaints dated 7 October 2015.
- Various email correspondence between the tenant and the Key Place dated between 19 August and 9 September 2015
- Notification letter from the tenant to the landlord dated 12 November 2015, together with certificate of posting dated 18 November 2015
- Letter from the landlord to the tenant in response to her notification letter, dated 21 November 2015
- Various emails from the tenant to the panel dated between 1 and 21 December 2015
- Emails from the landlord's agent to the panel dated 6 and 12 January 2016.
- The written representations received from both parties.
- The responses to the committee's first direction received from both parties.
- Various emails from the tenant to the panel dated between 4-8 February 2016
- Email from the landlord's agent to the panel dated 11 February 2016, confirming that the roofing/building works at the property had begun that day.
- List of outstanding issues at the property sent to the panel by the landlord's agent on 16 February 2016
 - The committee's inspection of the property.
 - The oral representations of the parties at the hearing.

Summary of the issues

15. The issue to be determined was whether the property meets the repairing standard as set out in Section 13 of the Act, and whether the landlord had complied with the duty imposed on her by section 14 (1) (b).

Findings of fact

16. The committee made the following findings in fact:
- The tenant entered into a short assured tenancy agreement with the landlord on 7 September 2015 to rent the property for six months from 7 September 2015 until 7 March 2016.
 - The tenancy of the property is managed on the landlord's behalf by the Key Place, 19 Main Street, Bo'ness EH51 9NQ.
 - The committee in its inspection carefully checked the items which were the subject of the complaint. The committee observed the following:

- i. Dampness readings were taken in the kitchen and both bedrooms. These indicated high levels of dampness on the outside walls in all three rooms. The carpet in the bedroom underneath the wall vent was damp.
- ii. The hole in the utility room next to the boiler had been repaired by placing a board over it. The hole appeared to have resulted from the structural crack in the outside gable wall.
- iii. There was a long vertical crack down the full height of the side gable wall which was clearly visible on the outside of the building
- iv. The committee did not observe any evidence of draughts coming through any of the windows in the property, which were double glazed.
- v. There were some signs of condensation inside the window in the living room at the front.
- vi. The front wall of the living room, where high dampness readings were found, was bulging and showed signs of loose and bulging plaster. There were holes in the wall which Mr Hensman said he had made in order to allow air circulation.
- vii. The radiator in the living room had been repaired and was no longer leaking.

Reasons for decision

17. It was clear from the considerable amount of paperwork before the committee, and from the inspection and hearing, that there was a difficult relationship between the parties. The tenant felt that she had been let down from the start by the landlord / The Key Place, whom she believed had failed to address issues which she had raised before moving into the property, and then throughout her tenancy. She had various health issues, and felt that she had been unable to live comfortably in the property due to the outstanding repairs issues. She was worried and upset about the notice to quit, as she had not yet found a new place to live.
18. Mr Young told the committee that The Key Place had sought to deal with the repairs issues as they arose, but that the tenant had refused access to the letting agency and its tradespeople during the time she had been in the property. He said that he had been unaware of the issues complained about by the tenant prior to her making those complaints, and that it had not been possible to carry out the inspections that would normally be carried out during a tenancy due to the lack of access. The Key Place had made three successful right of entry applications to the panel, in order to gain access for contractors to assess the roof, the wall and the windows, and for the utility meters to be inspected. The tenant denied that she had refused access, stating that the doorbell had not been working and she had been unaware of contractors trying to gain access. The Key Place also felt that the tenant had not followed the correct procedures under her tenancy agreement as she had

called out Scottish Gas directly on a number of occasions, and had arranged for contractors to come and quote for window repairs / replacement, rather than referring these matters to the letting agent.

19. There were also various other issues raised in the correspondence, including the initial cleanliness and state of decoration of the property, whether the tenant had a right to carry on a business/hobby in the property, and a tree which had been blown over in the garden. The tenant also indicated that she intended to seek compensation from the landlord for, among other things, the excessive utility bills she had to pay as a result of the repairs issues.
20. The committee was, however, unable to consider any of these other issues. It was only able to make a determination about the repairing standard issues raised in the tenant's application, and the chairperson made this clear to the parties at the beginning of the hearing. The parties confirmed that they understood this.
21. The complaints before the committee as set out in the tenant's application and the committee's determinations in relation to each of these are set out below.

1. Water ingress and damp

22. It was clear from the committee's inspection that there were high levels of damp within both bedrooms, the kitchen and the living room. The tenant told the committee that the roof was leaking at the time she moved into the property. She said that her bedroom was cold and damp, and she had to keep her clothes in the hall, to protect them from the damp. She said that she had been running a dehumidifier constantly, which had contributed to her excessively high fuel bills.
23. Mr Young told the committee that the water ingress and damp had not been identified by the letting agent prior to Mrs Burt's complaint. There had been issues with access, and there was a common responsibility for roof repairs with the lower flat. Temporary repairs had been carried out around November. Various quotes had been obtained during November and December. The work had been instructed jointly by both owners in mid-December and had been due to start in mid-January, but had been delayed due to the weather conditions.
24. Mr Goodwin and Mr Young told the committee that they were satisfied that the roof repairs, which had been completed on the day before the hearing, would fully address the dampness, although it would take the walls some time to dry out. The tenant agreed that the works had been completed the previous day. At the hearing, the committee asked the landlord's representatives to send to

the panel written evidence that the works had been completed. On 22 February, an email was received from Mr Young, attaching a receipt from D. Campbell Roofers to Mr Goodwin for a part payment of £1000 in respect of the roof works. Also attached to the email was a document which appeared to have been produced by The Key Place, confirming that the works had been completed, and would be sufficient to stop the water getting into the property. It stated that the only outstanding works to be done was to replace the chimney cowls.

25. The committee accepted the landlord's evidence that the roof repairs had been completed. The committee considers it likely on the basis of the evidence before it that these repairs will resolve the dampness issues over time, but notes that it is likely to take some time for the currently damp areas to dry out. The committee determines that, at the time of its inspection, the property was not yet proved to be wind and watertight and in all other respects reasonably fit for human habitation, and drying out and making good of the redecoration was not yet completed.

2. Structural crack in external wall

26. It was clear from the committee's inspection that there was a large vertical crack in the outside gable wall. This was acknowledged by Mr Young and Mr Goodwin, who confirmed that a structural engineer had commenced repair works, and that they expected these to be completed by the end of the week. This was a common repair, responsibility for which was shared with the owner of the lower flat in the villa.
27. On the basis of its inspection and the other evidence before it, the committee determines that the external wall is part of the structure and exterior of the property, which was not at the time of its inspection in a reasonable state of repair and in proper working order.

3. Hole in utility room wall

28. The tenant told the committee that there had been a large crack in the utility room wall, through which she had been able to see outside, and could hear traffic noise. She said that a builder sent by The Key Place had filled in the crack around 6-8 weeks ago. The committee observed that the hole had been boarded over. It was clear that the hole had resulted from the vertical crack in the outside of the building. Mr Young and Mr Goodwin confirmed that the board was a temporary measure which would be addressed once the crack had been fixed. On the basis of its inspection and the other evidence before it, the committee determines that the utility room wall is part of the structure and

exterior of the property, which was not at the time of its inspection in a reasonable state of repair and in proper working order.

4. Seals on the windows

29. The tenant said that there had been draughts throughout the property since she moved in. She said that the previous tenant had told her the flat was very cold. She told the committee that she was unsure as to where the draughts were coming from, but thought that the source was the windows. She said that the curtain in the kitchen moved noticeably when there was wind, and that the draughts had continued after the hole in the utility room was boarded over.
30. Mr Young told the committee that the previous tenant had raised no issues relating to the windows. He said that dates had been arranged for contractors to attend, but that the tenant had not provided access. Following the decision of the Private Rented Housing Committee to assist the landlord in exercising its right of entry to the property, two contractors instructed by the Key Place had gained access to the property on 25 January. Mr Young told the committee that both contractors had stated that the windows were in good condition, but had quoted for minor repairs. He produced to the committee a quotation from C. Jenkins Windows Ltd, which stated that the windows were in good overall condition, and quoted for some remedial work, including replacing catches and hinges, which 'would help to prevent draughts'. He also said that Grahamston Glazing had said that the windows were wind and watertight, but that minor, non-essential repairs could be carried out, and produced an email from that company quoting for the replacement of hinges.
31. The committee did not observe any evidence of draughts from the windows at its inspection, although conditions were not windy on the day in question. The committee noted the evidence produced by The Key Place from the window contractors. The committee considered that any draughts which might be experienced were likely to be due to the age and character of the property. The committee noted that, in terms of section 13 (3) (a) of the 2006 Act, in determining whether the structure and exterior of a property meets the repairing standard, regard is to be had to the age, character and prospective life of the house. The committee therefore determined on the balance of probabilities that the windows were wind and watertight, and that the windows were in a reasonable state of repair and working order.

5. Bulging living room wall

32. The tenant told the committee that the front wall in the living room had been bulging when she moved into the property, but that as the property had been recently decorated, she had initially thought this was due to paint drying. The

committee observed at its inspection that the wall, where high dampness readings were found, was bulging and showed signs of loose plaster. The committee therefore concludes that the bulging wall is probably a result of the water ingress through the roof and the resultant damp. The committee determines that the wall is part of the structure and exterior of the property, which is not in a reasonable state of repair and working order. The committee would emphasise that the internal condition of this wall will need to be monitored after the drying out period, and the existing plasterwork may need to be replaced if it does not dry out and stabilise to allow proper redecoration.

6. Bedroom heating system

33. The tenant told the committee that the radiator in the first bedroom heated up as much as was possible, but did not provide adequate heat for a room of its size. She said that the living room, which has 3 radiators, was warm, but that the bedrooms were cold.
34. Mr Goodwin told the committee that when the boiler and central heating system was installed, he had asked the contractor to scope the heating system which was required. The radiator in the bedroom had been recommended as being the correct size for the room. The reason there were three radiators in the living room was that at the time the heating system was installed, the landlord's mother was living in the flat and spent most of her time in that room. Mr Young pointed out that, given its age and construction, it was inevitable that the property would be cold, particularly during the winter months. He said that it had been given a category G Energy Performance Certificate, which was included in the advertisement when the property was being let.
35. The committee determines on the basis of the evidence before it that the heating system within the bedroom is in a reasonable state of repair and in proper working order.

7. Dishwasher

36. The tenant had asked the panel to remove her complaint about the dishwasher from her application in her email to the panel dated 2 December 2015. She confirmed this to the committee at its inspection, and the committee did not therefore include this matter in its inspection.

8. Leaking radiator

37. The tenant confirmed that the radiator had been repaired, although she told the committee that she had to pay for this herself, because it was not covered

by the landlord's maintenance contract with Scottish Gas, which only included the boiler. The committee determines on the basis of the evidence before it that the radiator is in a reasonable state of repair and in proper working order

9. *Boiler*

38. The tenant said that there had been ongoing problems with the boiler losing pressure, which had happened three times in the week before Christmas. The boiler had now been fixed, and had been working since around the end of January. It appeared that blockages in the radiators may have been responsible for the loss in pressure, and that an engineer from Scottish Gas called out by the tenant had flushed these out for her. The tenant had submitted evidence of a number of Scottish Gas callouts to the property. How many callouts there had been was a matter of dispute between the parties, as the tenant had called Scottish Gas out directly on some occasions, rather than going through the letting agent. Mr Young said that the tenant was never left without hot water or heating. He said that The Key Place had asked Scottish Gas whether the boiler needed to be replaced some weeks ago, and it had been confirmed that there was no fundamental issue with the boiler. The Key Place had also submitted to the committee a copy of the gas safety certificate for the property dated 20 October 2015, which confirmed that the boiler was safe.
39. Both parties confirmed at the hearing that they agreed that the boiler was now working. A number of emails were received by the panel from the tenant and letting agent regarding the boiler during the week following the hearing, between 22- 26 February. The tenant advised that the boiler continued to lose pressure and cut out, but indicated that she did not wish the landlord's agent to arrange repairs to the boiler before the end of her tenancy. She later suggested in an email of 23 February that she had been advised that the problem was in fact with the radiators, not the boiler. Mr Young stated in his email of 22 February that, based on what the tenant said, The Key Place was of the opinion that the boiler was working; that they were keen to investigate any issues and carry out repairs if necessary, but that in the circumstances, they considered it best to wait until she had moved out before investigating the matter.
40. While the committee hopes that the landlord will investigate this new issue with the boiler which has been reported by the tenant, it determines on the basis of the evidence before it that, at the time of its inspection and hearing, the boiler was in a reasonable state of repair and proper working order.

Observations by the committee

41. The committee wishes to make a number of observations in relation to the tenant's application. Firstly, it observed that there was only one smoke alarm within the property, in the hallway, and that there was no heat alarm in the kitchen. The tenant did not complain about this in her application, but the committee notes that this does not comply with the current statutory requirements for rented properties. The repairing standard includes a requirement under section 13 (1) (e) of the 2006 Act that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. In determining whether a property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, section 13 (5) of the Act states that regard is to be had to any building regulations and any guidance issued by the Scottish Ministers on these matters.
42. The current Scottish Government statutory guidance states that there should be at least:
- one functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes
 - one functioning smoke alarm in every circulation space, such as hallways and landings.
 - one heat alarm in every kitchen
 - and all alarms should be interlinked
43. Secondly, the committee notes that there was no carbon monoxide alarm within the property. At the time when the tenant's application was made, this was not a requirement under the repairing standard. The committee observes, however, that since 1 December 2015, the repairing standard includes a requirement under section 13 (1) (f) of the 2006 Act to ensure that there is satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health. Scottish Government guidance on the provision of carbon monoxide alarms in private rented housing is available at:
- <https://www.scottishlandlords.com/LinkClick.aspx?fileticket=t4YWI-asYF0%3D&tabid=432>
44. This guidance states that private landlords must ensure that a detection system is installed in all dwellings they rent to tenants where there is:
- a fixed combustion appliance (excluding an appliance used solely for cooking) in the dwelling or
 - a fixed combustion appliance in an inter-connected space, for example, an integral garage

- a combustion appliance necessarily located in a bathroom (advice would be to locate it elsewhere) - the CO detector should be sited outside the room as close to the appliance as possible but allowing for the effect humid air might have on the detector when the bathroom door is open.

45. The guidance also states that it is expected that landlords will have regard to it immediately and ensure CO detection is installed by 1 December 2015. However, if a landlord has a scheduled annual gas safety check it is reasonable to arrange work to install CO detectors at the same time. This will mean that no more than one year from the date of this guidance, all private rented properties should have adequate CO detectors installed.

46. Finally, with regard to the dishwasher, the committee did not inspect this, as the tenant indicated she did not wish to pursue this complaint. The committee noted, however, that Mr Goodwin appeared to acknowledge that the dishwasher was not working, and also appeared to be of the view that as this had been installed by the previous tenant, this was not the landlord's responsibility. The committee observes that if a property is let with an appliance present within the property, the tenant is entitled to presume that this appliance has been provided by the landlord as part of the tenancy, and that it is therefore covered by the repairing standard.

47. Following its inspection and the hearing, the committee determined that:

- the property is not wind and watertight and in all other respects reasonably fit for human habitation.
- the structure and exterior of the house (including drains, gutters and external pipes) is not in a reasonable state of repair and in proper working order

Summary of decision

48. The committee determines that the landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act, and in particular that the landlord has failed to ensure that the house meets the repairing standard in that the fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order

49. The committee therefore makes a Repairing Standard Enforcement Order as required by section 24 (2) of the Act.

Rights of Appeal

50. A landlord or tenant aggrieved by the decision of the committee may appeal to the sheriff by summary application within 21 days of being notified of that decision.

51. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the panel or the committee which made the decision.

Effects of Section 63 of the 2006 Act

52. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it 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 made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed... **Sarah O'Neill** Date... 10/3/16

Sarah O'Neill, Chairperson

Photographs taken at 79A Dean Road, Bo'ness EH5 1 9BA on 17 February 2016



01 - House – front elevation (upper flat)



02- Dampness meter (reading off-the-scale)



03- Wall showing dampness



04- Wall showing bulging and loose plaster



05- Front window showing condensation



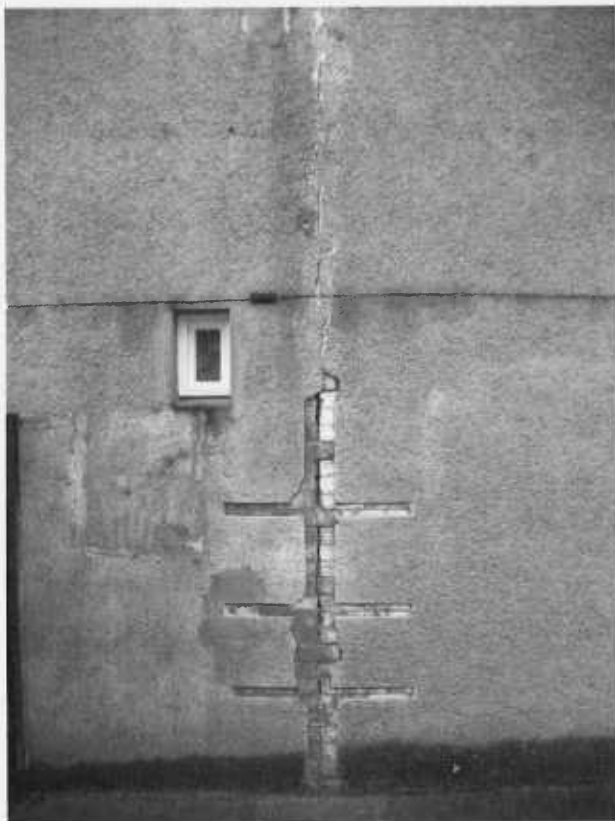
06- Dampness carpet (below vent)



07 - Utility room – board fitted at boiler



08 - Rear elevation, access & utility room



08 - Gable showing vertical crack



09 - Vertical crack at No 70A