



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re Flat Two Up Right (2/2) 11 Mains Road, Beith, KA15 2AF being the subjects registered in the land Register of Scotland under Title Number AYR39513 ('the Property')

The Parties:-

Samantha Evans residing formerly at Flat 2/2, 11 Mains Road, Beith, KA15 2AF ('The Tenant')

Jasvir Singh Sandhu residing at 46 Woodlands Road, Thornliebank, Glasgow ('The Landlord')

NOTICE TO

Jasvir Singh Sandhu residing at 46 Woodlands Road, Thornliebank, Glasgow

Whereas in terms of their decision dated 28th November 2012, 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 the Landlord has failed to ensure that the Property was wind and water tight and in all other respects reasonably fit for human habitation; that the structure and exterior of the property are in a reasonable state of repair and proper working order; that the fixtures and fittings and appliances provided by the Landlord under the Tenancy are in a reasonable state of repair and proper working order and the Property has a satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

The Private Rented Housing Committee now requires the Landlord to carry out such work as is 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 Private Rented Housing Committee requires the Landlord to:-

- (1) Repair the roof, slating and/or chimney heads to render the Property wind and water tight.
- (2) Repair the holes in the plaster of the bedroom walls to render them in a reasonable state of repair.
- (3) Reinstall the hall light fitting to render it in a reasonable state of repair and proper working order.
- (4) Install hardwired smoke alarms to ensure that they fully comply with current requirements.

The Private Rented Housing Committee order that these works must be carried out and completed By 8th March 2013.

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.

Signed..... **J Taylor** Date 28th November 2012

Chairperson
E Shedden

..... witness: ELIZABETH GIFFEN SHEDDEN, 65, High Street, Irvine



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

Re Flat Two Up Right (2/2) 11 Mains Road, Beith, KA15 2AF being the subjects registered in the land Register of Scotland under Title Number AYR39513 ('the Property')

The Parties:-

Samantha Evans residing formerly at Flat 2/2, 11 Mains Road, Beith, KA15 2AF ('The Tenant')

Jasvir Singh Sandhu residing at 46 Woodlands Road, Thornliebank, Glasgow ('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 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 Act.

Background

1. By application dated 10th August 2012 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 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 advised that the Property was 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 proper working order; the fixtures, fittings and appliances provided by the Landlord under the tenancy were not in a reasonable state of repair and in proper working order; Any furnishings provided by the Landlord under the tenancy were not capable of being used safely for the purpose for which they are designed and the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

In particular the application listed the items that the Tenant considered were in need of repair, namely:

- 2.1 The roof/ loft.
- 2.2 Floorboards.
- 2.3 Mice.
- 2.4 Holes on several walls.
- 2.5 Hall unsafe to use.
- 2.6 Bedroom window.

3. The Tenant sent an email to the Private Rented Housing Panel on 7th October 2012 intimating *inter alia* that she had vacated the Property.
4. The President of the Private Rented Housing Panel, having considered the application, issued a Minute of Continuation to a Determination, being a Decision under Schedule 2 paragraph 7(2) of the Act dated 15th October 2012, to the effect that the application should be considered even although it was deemed to have been withdrawn as the Tenant had vacated the Property.
5. The President of the Private Rented Housing Panel thereafter referred the application under Section 22 (1) and Schedule 2 Paragraph 7(2) of the Act to a Private Rented Housing Committee.
6. The Private Rented Housing Committee served Notice of Referral upon the Landlord dated 1st November 2012.
7. The Committee attended at the Property on 22nd November 2012. The Landlord was present. The Committee inspected the alleged defects and found as follows:-

6.1 The roof/ loft.

There was evidence of dampness in the ceilings of the bedroom and living room in the areas below the chimney. The surveyor member of the Committee tested these areas of dampness with a damp meter. The meter readings were into the red, which confirmed the presence of dampness.

6.2 Floorboards.

The floorboards in the bedroom were slightly uneven. The floorboards in the living room had been repaired and new laminate flooring had been recently installed.

6.3 Mice.

The Committee saw that mouse poison had been put in two places in the hall and the poison appeared to have been untouched. The Landlord explained that he had put the poison out over a month ago. There was no other evidence of mice in the Property.

6.4 Holes on several walls.

There was a large hole in the plaster of the bedroom wall and a smaller hole adjacent to the bedroom window.

6.5 Hall light unsafe to use.

The light fitting in the hall was missing.

6.6 Bedroom window.

The Landlord advised that he had replaced the handles of the double glazed unit in the bedroom. The Committee opened and closed the double glazed window and acknowledged that it was in proper working order.

6.7 Smoke Alarms

There were no smoke alarms in the Property.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Community Centre, Beith.

In relation to the matters detailed in the Tenant's application the Landlord advised as follows:

7.1 The roof/ loft.

He explained that the repairs to the roof are ongoing. His builder needs to replace the defective and missing lead and he is hopeful that the repair will be completed in a week or so.

- 7.2 Floorboards.
He confirmed that the floor boards have been repaired.
- 7.3 Mice.
He confirmed that he has found no evidence of mice in the Property.
- 7.4 Holes on several walls.
He advised the Committee that the hole in the bedroom wall was not there at the commencement of the lease and he confirmed that the hole would be repaired.
- 7.5 Hall unsafe to use.
He advised the Committee that the light fitting would be repaired before the Property is re-let.
- 7.6 Bedroom window.
He confirmed that the window is in proper working order.
- 7.7 Smoke Alarms
He acknowledged that there were no smoke alarms in the Property at the time of the inspection.

8. Summary of the issues

The issues to be determined are:-

- 8.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

Whether the condition of the roof of the Property results in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

- 8.2 The structure and exterior of the Property was not in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

Whether the condition of the floorboards, the holes in the plaster of the walls in the bedroom and the condition of the bedroom window result in the Property not being in a reasonable state of repair and in proper working order.

- 8.3 That the fixtures, fittings and appliances provided by the Landlords under the tenancy were not in a reasonable state of repair and in proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

Whether the light fitting in the hall is in a reasonable state of repair and in proper working.

- 8.4 The Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (section 13(1)(f) of The Housing (Scotland) Act 2006).

Whether there is satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Findings of fact

The Committee found:-

- 8.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

The presence of the dampness in the lounge and bedroom of the Property does result in the Property not being wind and water tight.

- 8.2 The structure and exterior of the Property was not in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

The floorboards in the Property and the bedroom window had been repaired and the Committee considered that these items were in a reasonable state of repair and proper working order.

The holes in the plaster of the walls of the bedroom resulted in them not being in a reasonable state of repair and proper working order.

- 8.3 That the fixtures, fittings and appliances provided by the Landlords under the tenancy were not in a reasonable state of repair and in proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

The light fitting in the hall was missing at the time of the inspection and accordingly it was defective and not in a reasonable state of repair and in proper working order.

- 8.4 The Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (section 13(1)(f) of The Housing (Scotland) Act 2006).

The lack of hardwired smoke alarms means that the Property does not have a satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Decision

- 9 The Committee accordingly determined that the Landlord had failed to comply with the duties imposed by Sections 13 (1)(a), 13(1)(b), 13(1)(d), 13(1)(f) and 14 of the Act, as stated.
- 10 The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
11. The decision of the Committee was unanimous.

Right of Appeal

12. 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

13. 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.

J Taylor

Signed Date 28th November 2012
Chairperson