



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re:Hardcroft, Gatehouse of Fleet, Castle Douglas, DG7 2EN being the subjects described in the Disposition in favour of Walter Jameson McCulloch Recorded in the Division of The General Register of Sasines for the County of Dumfries on 11th May 1938 (Search Sheet 12 1/489) ('the Property')

The Parties:-

Dumfries & Galloway Council, Landlord Registration Department, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD (The Applicants')

Ardwall Farms Limited being a Company registered under the Companies Acts and having their registered office at 1, Earl Gray Street, Edinburgh, represented by Alexander McCulloch residing at Ardwall House, Gatehouse of Fleet, Castle Douglas, DG7 2EN ('The Landlord')

Case Ref No: PRHP/RT/16/0115

The Committee members were Jacqui Taylor (Chairperson) and George Campbell (Surveyor Member).

NOTICE TO

Ardwall Farms Limited being a Company registered under the Companies Acts and having their registered office at 1, Earl Gray Street, Edinburgh, represented by Alexander McCulloch residing at Ardwall House, Gatehouse of Fleet, Castle Douglas, DG7 2EN

Whereas in terms of their decision dated 22nd June 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 the Landlord has failed to ensure that the Property is wind and water tight and in all other respects reasonably fit for human habitation and that the structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and 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 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. Remedy the water penetration of the east gable wall of the Property and associated dampness to the kitchen.
2. The Private Rented Housing Committee order that the works must be carried out and completed by 30th September 2016.

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 type written on this and the preceding page are executed by Jacqueline Taylor, solicitor, 65, High Street, Irvine, chairperson of the Private Rented Housing Committee at Irvine on 22nd June 2016 before this witness:-

J Taylor

Signed..... Date 22nd June 2016
JACQUELINE TAYLOR, Chairperson

K Byrne

.....witness: KEIRSTEN BYRNE, 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

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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 Property, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. Dumfries & Galloway Council, Landlord Registration Department, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD 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 Housing (Scotland) Act 2006 ("the Act").

2. The application stated that they considered that the Landlord has failed to comply with his duty to ensure that the Property meets the repairing standard. They advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation and 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.

In particular the application stated that:-

'There is water penetration from the east facing gable wall at floor level. Puddles appear on the kitchen floor.'

The application also stated that the Tenant of the Property is Ms Diane Schofield, residing at Hardcroft, Gatehouse of Fleet, Castle Douglas, DG7 2EN ('The Tenant')

3. The President of the Private Rented Housing Panel, having considered the application, comprising documents received between 30th March 2016 and 6th April 2016, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee.

4. The Committee members were Jacqui Taylor (Chairperson) and George Campbell (Surveyor Member).

5. The public register of Registered Landlords states that Ardwall Farms Limited is the Landlord of the Property.

6. The President of 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, Dumfries and Galloway Council and, for information purposes, on the Tenant, dated 25th April 2016.

7. The Committee attended at the Property on 7th June 2016. The Tenant, Alexander McCulloch and also Amanda Green and Robert Rome of Dumfries and Galloway Council were present at the inspection. The Property is a detached stone cottage, circa late 19th century, situated in a remote location. The accommodation comprises living room, bedroom, kitchen and bathroom on the ground floor and additional accommodation on the upper floor. The Committee inspected the alleged defects and found that there was internal dampness to the east gable kitchen wall of the Property. The Tenant explained that there has been frequent puddling on the kitchen floor when it has been raining. The Committee noted that there was an external water tap on the east gable wall and a rubber hose was connected to the tap which passed through a vent into the kitchen and connected to the water pipes underneath the kitchen sink. The rubber pipe appeared to be over ten years old and bent as it entered the vent. The surveyor member of the Committee suspected that the dampness could be due to a leak in the pipe. He tested the internal east gable wall with a damp meter and the readings confirmed that the wall was damp.

Alexander McCulloch showed the Committee that he had recently installed new field drains in the fields adjoining the garden of the property to divert field water away from the Property.

Photographs were taken during the inspection and are attached as a Schedule to this report.

8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Gatehouse of Fleet Community Centre, Garden Street, Gatehouse of Fleet, Dumfries, DG7 2 JU.

Alexander McCulloch and also Amanda Green and Robert Rome of Dumfries and Galloway Council attended the hearing.

Alexander McCulloch explained that he had already contacted his plumber and arranged for him to call at the Property and repair the pipe that is connected to the external tap. He acknowledged that if the dampness is not related to the pipe it could be due to ground water running from the surrounding ground which is at a higher level.

Amanda Green explained that when she viewed the Property there was a puddle of water in the kitchen and the Tenant had advised her that she had removed the kitchen carpet as it was damp.

Summary of the issues

9. The issues to be determined are:-

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

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

Findings of fact

10. The Committee found that the internal dampness east end gable wall of the Property results in the Property not being wind and watertight and the structure and exterior of the Property not being in a reasonable state of repair and proper working order.

Decision

11. The Committee accordingly determined that the Landlord had failed to comply with the duties imposed by Sections 13 (1)(a) and 13(1)(b) of the Act, as stated.

12. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

13. The decision of the Committee was unanimous.

Right of Appeal

14. 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

15. 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
Chairperson

J Taylor

Date 22nd June 2016

Photographs taken at Hardcroft, Gatehouse of Fleet DG7 2EN on 7 June 2016 (PRHP/RP/16/0115)



01 - Front elevation



02 - Kitchen dampness floor at NE gable corner



03 - Rear elevation



04 - NE gable corner



05 - Standpipe at NE gable



06 - Standpipe showing rubber supply pipe



07 - Kitchen cupboard showing supply pipe



08 - Kitchen cupboard showing supply pipe



09 - Kitchen under sink showing supply pipe



10 - Kitchen - Heat detector



11 - Carbon monoxide detector - living room



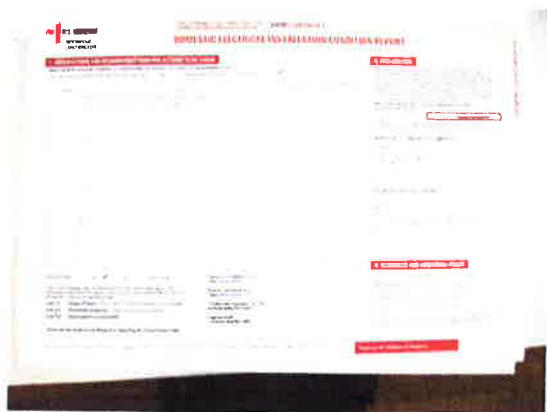
12 - Smoke detector - living room



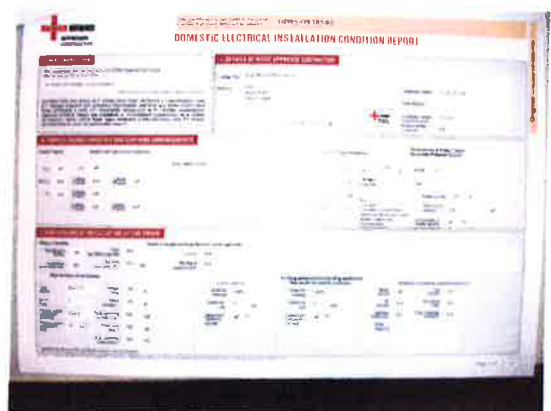
13 - Smoke detector - upper hall



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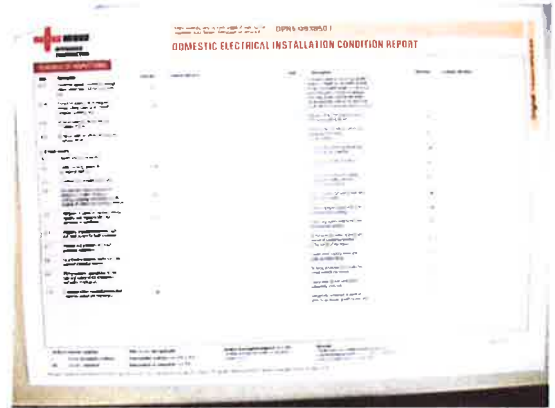
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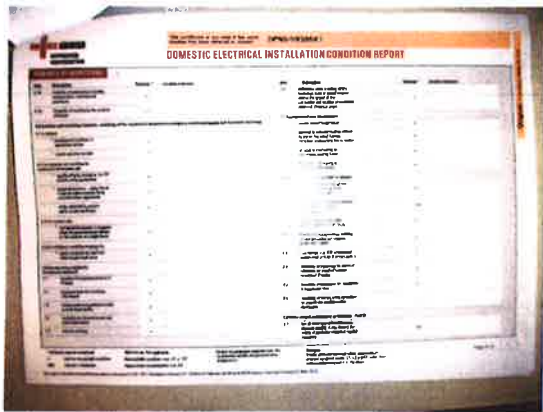
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