



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Ref PRHP/RP/16/0236

Ellenbank Lodge, Garngour Road, Lesmahagow, ML 11 0EU being the subjects registered in the Land Register of Scotland under Title Number LAN218326 ('the Property')

Lee Spencer and Sarah Dorothy Spencer both residing at 4 Kings Crescent, Camberley, GU15 4NA represented by Countrylet Limited of 33 Abbeygreen, Lesmahagow, ML11 0EQ ('the Landlords')

Miss Claire Goodwin residing at Ellenbank Lodge, Garngour Road, Lesmahagow ('the Tenant')

The Committee members are Jacqui Taylor (Chairperson) and Kingsley Bruce (Surveyor Member).

NOTICE TO

Lee Spencer and Sarah Dorothy Spencer both residing at 4 Kings Crescent, Camberley, GU15 4NA represented by Country Let Limited of 33 Abbeygreen, Lesmahagow, ML11 0EQ

Whereas in terms of their decision dated 11th September 2016, the Private Rented Housing Committee determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular the Landlords have failed to ensure 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 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 proper working order; any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and proper working order and the Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

The Private Rented Housing Committee now requires the Landlords 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 Landlords to:-

1. Exhibit to the PRHP Administration a certificate of new installation confirming that the boiler is safe and has been installed in compliance with the regulations.
2. Install carbon monoxide alarms in compliance with the regulations.
3. Repair or replace the garage door to render it in proper working order.
4. Attach the garden gate to the gate post to render it in proper working order.
5. Repair or replace the dishwasher to render it in proper working order.
6. Affix the missing tiles to the side of the bath panel and disconnect and remove the transformer unit and loose wires below the pelmet/ bath panel.

The Private Rented Housing Committee order that the works must be carried out and completed by 15th October 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 12th September 2016 before this witness:-

Jacqueline Taylor

Signed..... Date 12th September 2016
JACQUELINE TAYLOR, Chairperson

Keirsten 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

Ref PRHP/RP/16/0236

Ellenbank Lodge, Garngour Road, Lesmahagow, ML 11 0EU being the subjects registered in the Land Register of Scotland under Title Number LAN218326 ('the Property')

Lee Spencer and Sarah Dorothy Spencer both residing at 4 Kings Crescent, Camberley, GU15 4NA represented by Countrylet Limited of 33 Abbeygreen, Lesmahagow, ML11 0EQ ('the Landlords')

Miss Claire Goodwin residing at Ellenbank Lodge, Garngour Road, Lesmahagow ('the Tenant')

The Committee members are Jacqui Taylor (Chairperson) and Kingsley Bruce (Surveyor Member).

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the Property, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. The Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords have 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 she considered that the Landlords have failed to comply with their 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 Property (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order; the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order; Any fixtures, fittings and appliances provided by the Landlords under the tenancy are not in a reasonable state of repair and proper working order; Any furnishings provided by the Landlords under the tenancy are not capable of being used safely for the purpose for which they are designed and The Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

In particular the application stated that the works required are:-

- 2.1. Boiler to be renewed.
- 2.2 Window to be repaired.
- 2.3 Carbon monoxide alarms to be fitted.
- 2.4 Garage door to be repaired.
- 2.5 Garage roof to be repaired.
- 2.6 Garden gate to be repaired.

- 2.7 Dishwasher to be repaired.
- 2.8 Bath panel to be repaired.

3. On 1st July 2016, the Convenor of the Private Rented Housing Panel, having considered the application, comprising documents received on 30th June 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 Kingsley Bruce (Surveyor Member).

5. 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 Landlords and the Tenant, dated 2nd August 2016.

6. The Committee attended at the Property on 7th September 2016.

The Property is a one and a half storey modern detached house, built circa 1990, with garden to front and rear.

The accommodation comprises four bedrooms, living room, dining/ kitchen, bathroom and two separate toilets.

The Committee inspected the alleged defects and found:-

6.1. Boiler to be renewed.

The Tenant advised that the boiler had ben renewed approximately four or five weeks previously and it was working properly. The Committee saw that a new Viessmann central heating boiler had been installed with separate hot water cylinder and pressure vessel.

6.2 Window to be repaired.

The Tenant showed the Committee that the velux window in one of the upstairs bedroom had been replaced.

6.3 Carbon monoxide alarms to be fitted.

There were no carbon monoxide alarms in the Property.

6.4 Garage door to be repaired.

The metal up and over garage door was not secure, one of the guide wires had snapped and the door and hanging was off the runners.

6.5 Garage roof to be repaired.

A new roof felt had been nailed to the garage roof.

6.6 Garden gate to be repaired.

The wooden garden gate was off its hinges. The gate post had been nailed to the wooden fence and had split.

6.7 Dishwasher to be repaired.

The Tenant explained that the dishwasher was not working properly as no water was reaching the appliance.

6.8 Bath panel to be repaired.

There was a tiled panel at the side of the bath in the form a pelmet, with lights fitted behind the pelmet. A number of tiles had fallen off the panel / pelmet. Also there was a transformer unit and wires leading from the lights behind the pelmet, sitting loose on the floor at the side of the bath.

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

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Fountain Hall, Abbeygreen, Lesmahagow, ML11 0HD.

The Tenant and Jeanette Harrison of Countrylet Limited, the Landlords' representative, attended the hearing.

In respect of the matters in the application they advised as follows:

7.1 Boiler to be renewed.

The Tenant explained that the old boiler had not worked properly and a new boiler had recently been installed. The boiler was working satisfactorily but the copper pipes had not been boxed in. Jeanette Harrison explained that the boiler had been installed and fitted by Energy made Greener Limited, East Kilbride, at a cost of £5400.

7.2 Window to be repaired.

The Tenant confirmed that the velux window had been satisfactorily replaced.

7.3 Carbon monoxide alarms to be fitted.

Jeanette Harrison explained that she had recently spoken to the contractor who had installed the boiler and he had confirmed that a carbon monoxide alarm had been fitted on 1st October 2015.

The Committee explained that there was no carbon monoxide alarms in the Property at the inspection.

7.4 Garage door to be repaired.

Jeanette Harrison explained that the Landlords had previously paid £208 for the garage door to be repaired. However the repair had not lasted and the door had come off the runners again.

7.5 Garage roof to be repaired.

Jeanette Harrison explained that the garage roof had been refelted in the last six to eight weeks.

7.6 Garden gate to be repaired.

The parties made no comment.

7.7 Dishwasher to be repaired.

Jeanette Harrison confirmed that the Landlords had supplied the dishwasher. The Landlords' plumber had inspected the appliance and advised that the water pipes at the rear of the

dishwasher had been chewed by mice. She was of the opinion that the Tenant was responsible for ensuring that mice do not get into the Property.

The Tenant advised that she had never seen mice in the Property.

7.8 Bath panel to be repaired.

The surveyor member of the Committee explained that he was particularly concerned that the transformer unit and wires leading from the light fitting behind the pelmet are lying loose at the side of the bath.

Summary of the issues

8. 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 garage roof results in the garage 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 (including drains, gutters and external pipes) are not in a reasonable state of repair and proper working order (Section 13(1) (b) of The Housing (Scotland) Act 2006).

Whether the the velux window in the bedroom, the garage door and the garden gate are in a reasonable state of repair and proper working order.

8.3 That the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order (Section 13(1)(c) of The Housing (Scotland) Act 2006).

Whether the boiler is in a reasonable state of repair and proper working order.

8.4 Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

Whether the dishwasher and the bath panel are in a reasonable state of repair and proper working order.

8.5 That the Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health (Section 13(1)(f) and (g) of The Housing (Scotland) Act 2006).

Whether the Property has satisfactory provision of CO detectors.

Findings of fact

9. The Committee found that:

9.1 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 felt on the garage roof had been satisfactorily repaired resulting in the garage roof being wind and water tight.

9.2 The structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and proper working order (Section 13(1) (b) of The Housing (Scotland) Act 2006).

The velux window in one of the bedrooms had been satisfactorily replaced resulting in it being in a reasonable state of repair and proper working order.

The garage door was hanging off the runners and the hinges of the garden gate were not fixed to the gate post resulting in both the garage door and garden gate not being in a reasonable state of repair and proper working order.

9.3 That the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order (Section 13(1)(c) of The Housing (Scotland) Act 2006).

The Committee acknowledged that a new boiler had been installed but they were unable to determine if it is in proper working order as no certificate of installation had been produced. Accordingly they could not determine if it is in a reasonable state of repair and proper working order.

9.4 Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

The Committee determined that as:

- (i) The dishwasher is not working.
- (ii) The tiles had fallen off the bath panel and
- (iii) There is a loose transformer unit and wires leading from light fitting behind the bath panel/pelmet.

The bath panel/pelmet and the dishwasher are NOT in a reasonable state of repair and proper working order.

9.5 That the Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health (Section 13(1) (g) of The Housing (Scotland) Act 2006).

The Committee acknowledged that the statutory guidance requires one CO detector in every space containing a fixed combustion appliance.

The Committee determined that the absence of the required CO detectors in the Property results in the Property NOT having satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

Decision

10. The Committee accordingly determined that the Landlords had failed to comply with the duties imposed by Sections 13 (1)(a); 13(1)(b); 13(1)(c); 13(1)(d) and 13(1)(g) of the Act, as stated.

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

12. The decision of the Committee was unanimous.

Right of Appeal

13. 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

14. 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.

Jacqueline Taylor

Signed
Chairperson

..... Date 11th September 2016

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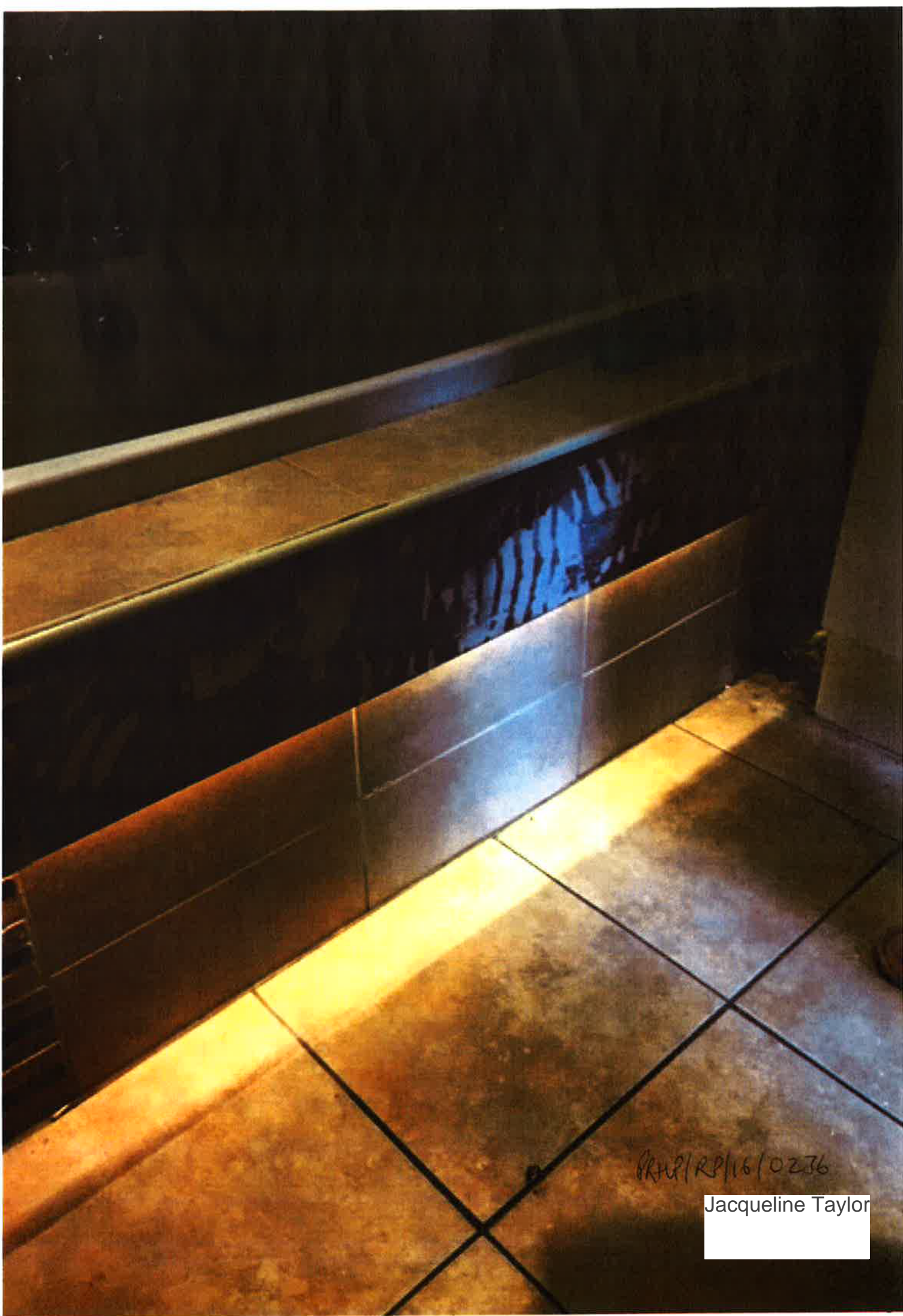
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