



Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

PRHP Ref: PRHP/RT/16/0245

8 St.Stephens, Stoneykirk, Stranraer, DG9 9DQ being the subjects registered in the Land Register of Scotland under Title Number WGN3942 ('the Property')

Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('the Third Party Applicant')

Mrs Elizabeth Seabourne or Touray residing at 107, Sheuchan Street, Stranraer, DG9 0ES ('the Landlord')

Agnes McIntyre residing at 8 St.Stephens, Stoneykirk, Stranraer, DG9 9DQ ('the Tenant')

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

NOTICE TO
The said Mrs Elizabeth Touray

Whereas in terms of their decision dated 30th September 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 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 or 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 in a reasonable state of repair and proper working order; any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and proper working order; any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed; the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire 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 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. Carry out a certificated electrical condition check (EICR) of the electrical installation by a suitably qualified and registered SELECT or NICEIC electrical contractor and carry out any required works. Provide a copy of the compliant EICR to the PRHP Committee.
2. Repair or replace the front and back doors to render them wind and water tight and in proper working order.
3. Repair or replace the kitchen cupboards and worktops to render them in proper working order.
4. Repair the leak to the W.C.
5. Replace the ceiling light fitting in the kitchen.

6. Clean the gutters to render them in proper working order.

7. Install:

- 7.1 One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.
- 7.2 One functioning smoke alarm in every circulation space, such as hallways and landings.
- 7.3 One heat alarm in every kitchen.
- 7.4 All alarms should be hardwired and interlinked and
- 7.5 One CO detector in every space containing a fixed combustion appliance.

The Private Rented Housing Committee order that these works must be carried out and completed By 10th November 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 typewritten on this and the preceding page are subscribed at Irvine on 30th September 2016 by Jacqui Taylor, chairperson of PRHP, 65, High Street, Irvine in the presence of the witness NICOLA GRIFFEN, 65, High Street, Irvine.

J Taylor

Signed.....

..... Date 30th September 2016

Chairperson

.......... witness



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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Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('the Third Party Applicant')

Mrs Elizabeth Seabourne or Touray residing at 107, Sheuchan Street, Stranraer, DG9 0ES ('the Landlord')

Agnes McIntyre residing at 8 St.Stephens, Stoneykirk, Stranraer, DG9 9DQ ('the Tenant')

The Committee members were Jacqui Taylor (Chairperson) and 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) 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. The Third Party Applicant 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; 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 Landlord under the tenancy are not in a reasonable state of repair and proper working order; the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire 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:-

- 2.1. No evidence of electrical installation being safe, recommend an EICR (electrical installation condition report) be carried out.
- 2.2 There are no carbon monoxide detectors.
- 2.3 External doors are ill fitted and require attention.

- 2.4 The oil fired central heating boiler has not been serviced since installation. This broke down, the Tenant arranged for a technician to repair, he stated the carbon monoxide omissions had been at critical levels.
- 2.5 The cooker switch in the kitchen had gone on fire, the Tenants again organised an electrician to repair this.
- 2.6 The kitchen cupboards/worktops are in a bad state of repair and not fit for purpose.
- 2.7 The toilet in the bathroom on the first floor is leaking and requires repair.
- 2.8 There is evidence of water penetration on the RH bedroom ceiling indicating there may be an issue with the roof and requires investigation/ repair.
- 2.9 The ceiling light is missing from the kitchen leaving wires exposed.
- 2.10 rainwater goods are choked, grass is growing.
- 2.11 The smoke detectors in the hallway and landing are not working. There is no smoke detector in the living room and there is no heat detector in the kitchen.

3. The President of the Private Rented Housing Panel, having considered the application, comprising documents received between 13th July 2016 and 2nd August 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 President of The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlords, Dumfries and Galloway Council and, for information purposes, on the Tenant dated 19th August 2016.

6. The Committee attended at the Property on 27th September 2016.

The Tenant's daughter attended the inspection. The Property is a semi detached modern one and a half storey property which was built in approximately 1960. Amanda Green and Sue Hall of Dumfries and Galloway Council were present at the inspection.

The Committee inspected the alleged defects and found:-

7.1. No evidence of electrical installation being safe, recommend an EICR (electrical installation condition report) be carried out.

The Tenant's daughter confirmed that neither herself nor her mother had been provided with the EICR.

7.2 There are no carbon monoxide detectors.

There were no carbon monoxide detectors in the Property.

7.3 External doors are ill fitted and require attention.

The front and back doors of the Property were wooden doors with a small central glass panel. There was an external rubber seal around both doors. The rear door was poorly fitting and the metal draught excluder below the front door was loose.

7.4 The oil fired central heating boiler has not been serviced since installation. This broke down, the Tenant arranged for a technician to repair, he stated the carbon monoxide omissions had been at critical levels.

The Tenant's daughter confirmed that her mother had the boiler serviced recently and it was now working properly.

7.5 The cooker switch in the kitchen had gone on fire, the Tenants again organised an electrician to repair this.

The Tenant's daughter confirmed that her mother had the cooker switch repaired recently and it also now worked properly.

7.6 The kitchen cupboards/worktops are in a bad state of repair and not fit for purpose.

The worktop around the kitchen sink was very loose and was not fitted to the wall or the base units. Also the hinges of the kitchen cupboard doors were very loose.

7.7 The toilet in the bathroom on the first floor is leaking and requires repair.

There was a leak from the soil pipe behind the WC.

7.8 There is evidence of water penetration on the RH bedroom ceiling indicating there may be an issue with the roof and requires investigation/ repair.

There was a stained area to the ceiling of the rear bedroom. The surveyor member of the Committee tested the stained area with a damp meter and confirmed that there was no dampness present.

7.9 The ceiling light is missing from the kitchen leaving wires exposed.

The ceiling light in the kitchen was missing and the wires in the light fitting were exposed.

7.10 Rainwater goods are choked, grass is growing.

The Tenant's daughter explained that the gutters had recently been cleaned by a neighbour. However there were weeds growing in the rear gutter at the inspection.

7.11 The smoke detectors in the hallway and landing are not working. There is no smoke detector in the living room and there is no heat detector in the kitchen.

As stated in the application, the smoke detectors in the hallway and landing were not working. There is no smoke detector in the living room and there is no heat detector in the kitchen.

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 The High Kirk, Leswalt Road, Stranraer.

The Tenant and also Amanda Green and Sue Hall of Dumfries and Galloway Council attended the hearing.

As a preliminary matter the chairperson of the Committee asked Amanda Green to confirm that the application had been notified to the Landlord. She confirmed that letters had been sent to both 107, Sheuchan Street, Stranraer, DG9 0ES and 15 Conyers Avenue, Southport, PR8 4SZ, the addresses provided by the Landlord to Landlord Registration Services. The letter they had sent to 107, Sheuchan Street, Stranraer, DG9 0ES was sent recorded delivery and was returned as it had not been collected. Amanda Green also confirmed that notification had been sent by email.

Mrs McIntyre also confirmed that she had personally advised the Landlord of the outstanding repairs required.

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

8.1. No evidence of electrical installation being safe, recommend an EICR (electrical installation condition report) be carried out.

The Tenant confirmed that she has not been provided with the EICR.

8.2 There are no carbon monoxide detectors.

The Tenant confirmed that there are no carbon monoxide detectors in the Property.

8.3 External doors are ill fitted and require attention.

The Tenant confirmed that the front and back doors of the Property are draughty.

8.4 The oil fired central heating boiler has not been serviced since installation. This broke down, the Tenant arranged for a technician to repair, he stated the carbon monoxide omissions had been at critical levels.

The Tenant confirmed that she had the boiler serviced in December 2015 and it was now working properly.

8.5 The cooker switch in the kitchen had gone on fire, the Tenants again organised an electrician to repair this.

The Tenant confirmed that she had the cooker switch repaired recently and it also now worked properly. Amanda Green expressed concern about the general condition of the electrical wiring due to the fact that the cooker socket went on fire.

8.6 The kitchen cupboards/worktops are in a bad state of repair and not fit for purpose.

The Tenant confirmed that the worktop around the kitchen sink was very loose and was not fitted to the wall or the base units. Also the kitchen cupboard doors are very loose as the hinges are particularly loose.

8.7 The toilet in the bathroom on the first floor is leaking and requires repair.

There was a leak from the soil pipe behind the WC. They had placed a basin below the soil pipe to collect the leaking water.

8.8 There is evidence of water penetration on the RH bedroom ceiling indicating there may be an issue with the roof and requires investigation/ repair.

Mrs McIntyre explained that she had not been into the attic to find out the source of the leak but she accepted that the ceiling of the bedroom was dry at the inspection.

8.9 The ceiling light is missing from the kitchen leaving wires exposed.

The Tenant confirmed that the ceiling light in the kitchen is missing and the wires in the light fitting are exposed.

8.10 Rainwater goods are choked, grass is growing.

Mrs McIntyre explained that the gutters had recently been cleaned by her neighbour.

8.11 The smoke detectors in the hallway and landing are not working. There is no smoke detector in the living room and there is no heat detector in the kitchen.

Mrs McIntyre confirmed that the smoke detectors in the hallway and landing are not working. She also confirmed that there is no smoke detector in the living room and there is no heat detector in the kitchen.

9. Summary of the issues

The issues to be determined are:-

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).

Whether there is dampness to the bedroom ceiling and whether the external doors are wind and water tight.

9.2 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)(b) of The Housing (Scotland) Act 2006).

Whether the gutters are 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).

Whether the boiler and the electrical installations in the property are in a reasonable state of repair and proper working order.

9.4 That 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 (Section 13(1)(d) of The Housing (Scotland) Act 2006).

Whether the kitchen cupboards and worktops, the toilet in the bathroom and the ceiling light fitting in the kitchen are in a reasonable state of repair and proper working order.

9.5 That 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 the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

9.6 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).

Whether the Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

10. Findings of fact

10.1 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 Committee found no current evidence of dampness to the bedroom ceiling at the inspection and consequently determined that the ceiling is watertight.

The Committee saw that the metal draught excluder below the rear external door was loose and the rear external door was poorly fitting and consequently determined that the doors are wind and water tight.

10.2 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) (b) of The Housing (Scotland) Act 2006).

The Committee saw that there were weeds growing in the rear gutters and determined that they are not in a reasonable state of repair and proper working order.

10.3 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 accepted the evidence of Amanda Green that she had written to the Landlord requesting that she provide a copy of the EICR but the Landlord had not provided the copy requested. As the Landlord had not produced any evidence that the electrical installations are safe and in proper working order they determined that they are entitled to take the inference that they are not in a reasonable state of repair and in proper working order.

The Committee accepted the evidence of Mrs McIntyre that she had had the oil fired boiler serviced in December 2015 and it was now working properly.

10.4 That 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 (Section 13(1)(d) of The Housing (Scotland) Act 2006).

The Committee determined that the kitchen cupboards and worktops, the toilet in the bathroom and the ceiling light fitting in the kitchen are not in reasonable state of repair and proper working order, for the reasons stated.

10.5 That 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 Committee acknowledged that the statutory guidance requires:

- 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.
- All alarms should be interlinked.

As the smoke detectors in the hallway and landing are not working and as there is no smoke detector in the living room and no heat detector in the kitchen the Committee determined the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

10.6 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).

As there are no carbon monoxide alarms in the Property the Committee determined that the Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

Decision

11. 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),13(1)(f) and 13(1)(g) 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.

J Taylor

Signed
Chairperson

..... Date 30th September 2016

J. Taylor 30/9/16

Photographs taken at 8 St. Stephens, Stoneykirk, Stranraer DG9 9DQ
on 27 September 2016 (RT/16/0245)



01 - Front Elevation



02 - Lower hall, missing smoke alarm



03 - Upper hall, missing smoke alarm



04 - Kitchen, missing light



05 - Kitchen - cooker unit
(replaced by tenant)



06 - Kitchen, faulty cupboard units



07 - Rear gutters with vegetation



08 - Bathroom, leak at WC



09 - Bedroom, damp stain on ceiling



10 - Rear door



11 - Front door



12 - Oil fired boiler (no CO detector)
(last serviced at tenant's expense)