



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: DG12/160/11

Re : Property at Cheviot, Shawhill, Annan DG12 6SN ("the Property")

Subjects: ALL and WHOLE that dwellinghouse known as Cheviot, Shawhill, Annan in the County of Dumfries, erected on part of that area of ground extending to 37.022 acres or thereby at Shawhill, Annan described in Disposition by Henry Bowman Roddick in favour of Thomson, Roddick and Laurie Limited dated 24 November and recorded in the Division of the General Register of Sasines applicable to the County of Dumfries 19 December 1958.

The Parties:-

Thomson, Roddick and Laurie limited, Shawhill, Annan DG12 6SN ("the Landlord")

Miss Eileen Wright, Cheviot, Shawhill, Annan DG12 6SN ("the Tenant")

NOTICE TO THOMSON, RODDICK AND LAURIE LIMITED, Shawhill, Annan DG12 6SN ("the Landlord")

Whereas in terms of their decision dated 14 December 2011, 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 that the landlord has failed to ensure that :-

- (a) the house is wind and water tight and in all other respects fit for human habitation,
- (b) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,
- (a) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order, and
- (b) any fixtures, fittings and appliances provided by the Landlord under the tenancy are 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 purposes of ensuring that the house concerned 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:-

- (a) to instruct a joiner to carry out such repairs as are necessary to ensure the front and rear entrance doors shut and lock properly, that the glazed panels to the side of the front entrance door are securely fitted and that the door to the first bedroom to the left at the top of the stairs closes properly.
- (b) to identify the source of the ingress of rainwater in the area of the electricity meter/fusebox cupboard and carry out such repairs as are necessary to prevent further water ingress.
- (c) to instruct a suitably qualified timber and damp specialist to investigate the cause of dampness to the rear of the dining room door and the side of the front entrance door and carry out such works as are recommended by the specialist to eradicate the damp and make good, this work to include the checking of sub-floor timbers in the affected areas.
- (d) to infill all gaps between skirtings and floors throughout the Property.
- (e) to repair or replace the central heating /thermostat control in the back hall.
- (f) to carry out such works as are necessary to ensure the drainage from the bath is running freely.
- (g) to seal and repair or, if necessary, replace the shower screen, to ensure that water does not leak to the bathroom floor when the shower is in use.
- (h) to take all steps required to eradicate the problem of mice infestation in the Property.
- (i) to reinstate the boundary wall between the rear garden ground of the Property and the adjoining house.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed by 15 March 2012..

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(s) are executed by George Barrie Clark solicitor, Quartermile Two, 2 Lister Square, Edinburgh EH3 9GL chairperson of the Private Rented Housing Committee at Edinburgh on 14 December 2011 before this witness:-

I Meiklejohn

witness

G Clark

chairman

IAAN MEIKLEJOHN
SOLICITOR
2 LISTER SQUARE
EDINBURGH



Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

prhp Ref: DG12/160/11

Re : Property at Cheviot, Shawhill, Annan DG12 6 SN("the Property")

The Parties:-

Miss Eileen Wright, Cheviot, Shawhill, Annan DG12 6SN("the Tenant")

Thomson, Roddick and Laurie Limited, Shawhill, Annan DG12 6SN ("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 duties imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the Act") in relation to the house concerned, and taking account of the evidence led by the Tenant at the hearing, determined that the Landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Act.

The Committee comprised George Clark (chairperson), Donald Marshall (surveyor) and John Blackwood (housing member). The Clerk to the Committee was Robert Shea.

Background

1. By application dated 15 September 2011 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with its duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) the house is wind and water tight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of the Act).
 - (b) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order (Section 13(1)(b) of the Act)
 - (c) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order (Section 13(1)(c) of the Act).
 - (d) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order (Section 13(1)(d) of the Act).
4. By letter dated 13 October 2011 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.

5. 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 and the Tenant.
6. The Private Rented Housing Committee inspected the Property on the morning of 14 December 2011. The Tenant were present during the inspection. The Landlord was represented during the inspection by Mr Stuart Thomson, a Director of the Landlord company.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Annan Rugby Club, Annan and heard from the Tenant, who was accompanied by Anne-Marie McCarry, a housing adviser with Citizens Advice. The Landlord was represented at the hearing, as at the inspection, by Mr Stuart Thomson.
8. The Tenants submitted as follows:-
 - She had lived in the property since 1 December 2010.
 - She had written to the Landlord On 29 August, listing problems, some of which she had noticed when she moved in and others at a later stage. She listed in that letter the defects, room by room and these are summarised as follows:
 - Hall – the wooden surround on the entrance door was rotten, the glass next to the door was, in part, held by blu-tack, the wallpaper behind the entrance door was peeling off and plaster was coming away from the wall and, when it rained, water was entering the house at the cupboard which housed the electrical meter/fuse box.
 - Lounge – several mice had been caught in the room. The Tenant had also redecorated the room.
 - Back Hall – the heating control had never worked properly and the heating had to be switched on and off at the boiler in the kitchen. She had also had a problem with slugs in that area, with slug trails visible on the carpet every morning.
 - Office – she had seen a few slugs as well as mice in this room.
 - Dining Room – the chimney required to be swept, the floorcovering had been so bad that the Tenant had replaced it and the wallpaper behind the door to the hall was coming off as the plaster beneath it was crumbling.
 - Kitchen – the cupboards were in poor condition and, as mice were able to get in, she was storing all perishables, dishes, pans and cleaning products in plastics tubs with lids, on the worktops. She had trouble locking the back door and the floor was in very poor condition. The central heating boiler needed to be serviced.
 - Stairwell – the understair cupboard was damp and there were slugs present at the foot of the stairs.
 - Bathroom – mice had been present in the bathroom and were getting in through the pipe-box. All of the taps leaked. The bath did not drain properly and there was what appeared to be waste from drains around the plughole. The shower was poor and the water leaked on to the floor, even with the shower having a screen. She had blocked holes in the skirting board in the cupboard to try and keep the mice out.
 - Bedrooms – there was only one socket in each room. The door to one of the bedrooms could not be shut properly.
 - Shed – the roof was full of holes and one of the window panes had blown in.
 - The wall in the back garden was very dangerous and was about to fall down.
 - Gutters – the gutters were in need of cleaning and downpipes were in poor condition.
 - Since submitting her application to the Private Rented Housing Panel, the rear garden wall had in part fallen down (on 2 October). On the following day, she had seen Mr Thomson and had warned him that the remainder of the wall was unsafe. It had subsequently (but only very recently) been taken down and the rubble removed.
 - On one occasion, she had caught 5 mice in the kitchen and one in the living room in one evening. On another occasion, she had seen 4 mice in the living room, but had been unable to catch them. In her opinion, they were getting in through gaps between the skirting and the flooring, as well as through the air bricks which were present around the Property.

- The central heating boiler had now been serviced, but the thermostat in the back hall could not be switched off manually and only switched off when it reached the temperature at which it was set, but that temperature kept changing for no apparent reason. The only way of switching the heating on and off was at the boiler.
 - The Tenant had photographs which indicated the presence of slugs in the back hall and stair area.
 - The chimney in the dining room had now been swept.
 - There had been no evidence of mice in the property until May/June.
 - The back door was opening and closing easily at present, but in different prevailing weather conditions would again have to be shut using considerable force.
 - There was vegetation in the gutters, but the Tenant had not noticed any visible consequences of this in the Property.
 - The Tenant had had no response whatsoever to her letter of 29 August until the rear garden wall fell down.
 - Recently, grills had been put over the air bricks and a pest control inspector had put down two blocks of poison in each room.
 - Although some of the problems had been there at the start of the Tenancy, it had only become unbearable when the mice appeared.
9. For the Landlord, Mr Thomson confirmed that he had inspected the house on 5 November. He told the committee that, in rural properties, mice would appear at harvest time, but would not become a problem if trapped quickly and not allowed to nest. He had called in a pest control firm whenever he had seen the evidence of mice at his inspection on 5 November. He advised that the central heating boiler, chimney sweeping and rear garden wall had been attended to. He had asked a plumber on 4 November to deal with the issues in the bathroom, but the plumber had reported that morning that he had not yet been able to gain access to the Property. He accepted that there was still a blockage in the drains and that the bath had to be attended to. He showed the Committee a receipt for electrical work, including the changing of the fuse board, dated 11/11/2009 and a Gas Safety Certificate dated 12/10/2011. He advised that he expected the Committee to issue a list of repairs and these would be attended to when the Tenant vacated the Property later in the month and before the Property was re-let. He accepted that a number of issues required to be investigated. He had instructed the replacement of the broken window of the shed with a Perspex window pane and would be repairing the roof in the next few weeks. His intention was to replace the rear garden wall with a wall made of concrete blocks.

Summary of the issues

10. The issues to be determined were whether the house met the repairing standard as laid down in Section 13 of the Act and whether the landlord had complied with the duties imposed by Section 14(1)(b) of the Act.

Findings of fact

11. The Committee finds the following facts to be established:-
- The tenancy is understood to be a Short Assured Tenancy for an initial period of 6 months and month-to-month thereafter, although the Committee did not see the Form AT5 Notice.
 - The glazed panel to the side of the front entrance door does not appear to be properly secured.
 - The Tenant has carried out some redecoration and replaced some flooring in the Property. The Committee cannot comment on the pre-existing condition of the Property in these respects.

- The Committee could not find evidence of damp in the walls of the downstairs cupboard.
- The taps in the bathroom are functioning adequately.
- There are, in various areas of the Property, gaps between the skirting boards and flooring.
- There is evidence of water damage beneath the cupboard which houses the electricity meter/fuseboard, resulting in the wallpaper in that area becoming loose.
- The wallpaper behind the door leading to the dining room from the hall is loose and plaster behind it is flaking. Very high damp readings were taken in that area.
- The central heating control/thermostat in the back hall is not functioning properly.
- There is evidence of mice infestation in the Property.
- There is vegetation growth in the gutters and there are holes in the downpipes.
- The roof of the garden shed is leaking and one window pane is missing.
- The boundary wall between the Property and the adjoining house has been removed.

Reasons for the decision

12. There is evidence at the electrical meter/fusebox cupboard, of rainwater ingress, the source of which is not apparent, but it may originate from the vegetation growth in the gutters or holes in the downpipes and it may have caused damage to the sub-floor timbers, leading to gaps appearing between the skirtings and the floors. There is also evidence of damp in the wall behind the dining room door. The roof of the garden shed leaks and there is a pane of glass missing from one of the windows in the shed. The glazed panel to the side of the front entrance door does not appear to be properly secured. There is evidence of an infestation of mice in the Property. The rear boundary wall between the Property and the adjoining house has been removed. The Committee's view is that the Property does not meet the repairing standard under Section 13(1)(a) and (b) of the Act.

13. There is evidence that water leaks from the shower (or both) to the bathroom floor below, due to a defective shower screen. The central heating control/thermostat is not functioning properly. The view of the Committee, is that the Property fails to meet the repairing standard under Sections 13 (1)(c) of the Act.

14. The door of the bedroom to the left at the top of the stairs does not close properly. The Committee is of the view that the Property fails to meet the repairing standard under Section 13(1)(d) of the Act.

Decision

15. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act.

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

17. The decision of the Committee was unanimous.

Right of Appeal

18. 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

19. 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 **G Clark** Date 14 December 2011
Chairperson