



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re Flat Two Up left (2/1) 11 Mains Road, Beith, KA15 2AF being the subjects registered in the land Register of Scotland under Title Number AYR68702 ('the Property')

The Parties:-

Martin John Moran residing at Flat 2/1, 11 Mains Road, Beith, KA15 2AF ('The Tenant')

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

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 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.

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) Reinstall the missing handle pressure pads to the windows of the kitchenette of the Property.
- (3) Repair and reinstall the shower control/heating panel and the living room and storeroom light fittings to render them in a reasonable state of repair and proper working order.
- (4) Reconnect the gas, electricity and water supplies to the Property.

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 left (2/1) 11 Mains Road, Beith, KA15 2AF being the subjects registered in the land Register of Scotland under Title Number AYR68702 ('the Property')

The Parties:-

Martin John Moran residing at Flat 2/1, 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 25th 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 he considered that the Landlord has failed to comply with his duty to ensure that the Property meets the repairing standard. He 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 and the installations in the house 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.

In particular the application stated that he needs the Landlord to sort out the following matters:-

- 2.1 Gas and electricity.
- 2.2 Roof is leaking.
- 2.3 Draught in windows.
- 2.4 Live wires.
- 2.5 Floorboards.

3. The President of the Private Rented Housing Panel, having considered the application, referred the application under Section 22 (1) to a Private Rented Housing Committee.

4. 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, dated 5th October 2012.
5. The Committee attended at the Property on 22nd November 2012. It was raining heavily at the time of the inspection. The Tenant, his representative Samantha Evans and the Landlord were present. The Committee inspected the alleged defects and found as follows:-
 - 5.1 Gas and electricity.
The gas, electricity and water supplies in the Property had been disconnected.
 - 5.2 Roof is leaking.
There was evidence of dampness in the ceilings of the kitchenette and the bedroom. 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.
 - 5.3 Draught In windows.
Two out of three pressure pads were missing from the windows which meant that the handles of the windows could not create a draught proof seal when the window was closed.
 - 5.4 Live wires.
The cover of the shower water heater was detached and was lying in the sink, exposing the wires and internal mechanism of the shower unit. Also there were exposed wires where the light fitting in the lounge had been removed and there were also exposed wires in the ceiling of the store room.
 - 5.5 Floorboards.
The floorboards of the shower room were slightly uneven.
6. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Community Centre, Beith. The Tenant, his representative Samantha Evans and the Landlord attended the hearing.

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

- 6.1 Gas and electricity.
The Tenant and his representative Samantha Evans explained that the gas and electricity supplies to the Property were disconnected in October 2011. There has been no power in the Property since that time. The services have not been re-connected due to an outstanding account due by a previous tenant.
The Landlord advised that he had contacted the power supply companies when he became aware of the difficulties in August 2012. However, the power companies would not discuss the account with him as he was not the named account holder.
The Tenant advised that he would be vacating the Property in one month's time and the Landlord explained that he would be able to resolve matters with the power companies once the Tenant had moved out of the Property.
- 6.2 Roof is leaking.
The Landlord advised that he had submitted an insurance claim for the damage caused to the roof of the Property at the beginning of the year. A number of repairs have been carried out. However the repairs had not been completed as the Tenant had not provided access to enable his builder to determine what further repairs were required.
The Tenant confirmed that access would be provided.
- 6.3 Draught in windows.
The Landlord advised that the pressure pads that were missing from the kitchenette window were in place at the commencement of the tenancy. He acknowledged that without the pads the windows are draughty.
- 6.4 Live wires.
The Landlord advised that the shower fitting and the light fittings were correctly fitted at the commencement of the lease.

6.5 Floorboards.

The Tenant explained that the floorboards in the bathroom are uneven and start to move when he walks on them. He confirmed that he had not tripped as a result of the uneven floorboards.

The Landlord advised that the floorboards were in a good condition at the commencement of the lease.

7. **Summary of the issues**

The issues to be determined are:-

7.1 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 and the window of the kitchenette results in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

7.2 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 result in the Property not being in a reasonable state of repair and in proper working order.

7.3 The installations in the house 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.

Whether the electricity, gas and water supplies in the Property are in a reasonable state of repair and in proper working order.

Also whether the shower water heater, the exposed wires where the light fitting in the lounge had been removed and the exposed wires in the ceiling of the store room were in a reasonable state of repair and proper working order.

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 and the missing pressure pads from the window of the kitchenette 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 bathroom were slightly uneven but they were in a reasonable state of repair and proper working order.

8.3 The installations in the house 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 (Section 13(1)(c) of The Housing (Scotland) Act 2006).

The disconnected gas, electricity and water supplies were not in a reasonable state of repair and proper working order.

Also the shower water heater fitting and the exposed wires in the lounge and the store room were not in a reasonable state of repair and in proper working order.

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)(c) 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.
12. The Committee were concerned that there were no hardwired smoke alarms in the Property. They acknowledged that this matter was not included in the Tenant's application but due to the safety implications they would recommend to the Landlord that they are installed as a priority.

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.

J Taylor

Signed Date 28th November 2012
Chairperson