



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re Dalnigap, New Luce, Stranraer, DG8 0AZ being the subjects registered in the land Register of Scotland under Title number WGN62695 ('the Property')

The Parties:-

Luke Leighton residing sometime at Dalnigap, New Luce, DG8 0AZ ('The Tenant')

Richard Charles Bone and Sarah Elizabeth Bone residing together at Whitemoor Cross, Holbeton, South Devon, PL8 1JL ('The Landlords')

NOTICE TO

Richard Charles Bone and Sarah Elizabeth Bone residing together at Whitemoor Cross, Holbeton, South Devon, PL8 1JL

Whereas in terms of their decision dated 7th February 2013, 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 Property was wind and water tight and in all other respects reasonably fit for human habitation; that the fixtures and fittings and appliances provided by the Landlord under the Tenancy are in a reasonable state of repair and proper working order.

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) To carry out the necessary works to remedy the dampness present at the following locations in the Property:
 - (i) The gable wall of the front ground floor bedroom.
 - (ii) The internal wall between the living room and the hall, beyond the access door to the living room.
 - (iii) Above and around the fireplace in the living room.
- (2) To carry out works to make the internal door between the kitchen and the barn and the internal door between the hall and the porch air tight.

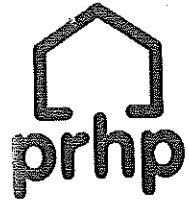
The Private Rented Housing Committee order that these works must be carried out and completed By 17th May 2013.

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 7th February 2013

Chairperson
.....
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 Dalnigap, New Luce, Stranraer, DG8 0AZ being the subjects registered in the land Register of Scotland under Title number WGN6295 ('the Property')

The Parties:-

Luke Leighton residing sometime at Dalnigap, New Luce, DG8 0AZ ('The Tenant')

Richard Charles Bone and Sarah Elizabeth Bone residing together at Whitemoor Cross, Holbeton, South Devon, PL8 1JL ('The Landlords')

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 Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 15th September 2012 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 Act.
2. The application by the Tenant stated that he considered that the Landlords have failed to comply with their 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; that the structure and exterior of the Property was not in a reasonable state of repair and proper working order; 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 proper working order; that the fixtures, fittings and appliances provided by the Landlords under the tenancy were not in a reasonable state of repair and in proper working order; that the 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 detecting fires and for giving warning in the event of fire or suspected fire.

In particular the application stated that:-

1. Footings are not water tight and let in water (3 times: twice during floods and once during heavy 5-week long rain).
2. Stone walls are not watertight and let in water.
3. Guttering is damaged and/or overflows.
4. Roof has zero insulation.
5. Many velux windows do not seal properly.
6. Windows need to be repaired or replaced.
7. Soakaway needs to be repaired to take account of severe flooding in field nearby.

8. Sewage back floods (up the kitchen sink) and over flows onto kitchen patio during wet weather.
 9. Pump on well failed (10th September 2012) so have no water.
 10. Light fittings are brittle (old) and have broken one has wires hanging loose. The light fittings need to be replaced.
 11. Electric heaters (economy 7) proved completely inadequate during the winter and costly.
 12. Temperatures in the property could not be maintained above 7 centigrade during the winter.
 13. There is no thermal insulation on the hot water tank.
 14. Barn to kitchen door is not air tight.
 15. Front interior door needs insulation.
 16. The floor needs to be resealed.
 17. Modern plaster board needs to be removed and replaced with older style materials that can cope with moisture.
 18. Much of the furniture supplied was covered in mould and had to be removed.
 19. Carpets need replacing due to damp and mould.
 20. There are no fire detectors.
3. The President of the Private Rented Housing Panel, having considered the application, referred the application under Section 22 (1) of the Act 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 Landlords and the Tenant, dated 22nd October 2012.
 5. Following service of the Notice of referral:-
 1. The Landlords submitted written representations dated 29th October 2012. In summary they advised that the Tenants had over stated the alleged defects and they detailed the significant repairs that had been carried out to the Property.
 2. The Tenant sent a number of emails giving a history of the alleged defects.
 6. The Committee attended at the Property on 4th February 2013. The Tenant had previously vacated the Property. Richard Bone, one of the Landlords and Tom Greenaway (Galloway Windows), on behalf of the Landlords, were present. The Property comprises a one and a half storey cottage constructed in the 1800's of stone with a pitched slated roof and situated in a remote rural location around 10 miles north east of Stranraer. It has a small rear extension with a flat roof and was renovated in the 1980's. The windows are all PVC double glazed and there are electric storage heaters throughout. The accommodation comprises a porch, hall, living room, dining/kitchen, bathroom, one single bedroom and one double bedroom on the ground floor and two double bedrooms on the upper floor.
The Committee inspected the alleged defects and found as follows:
 - 6.1 Footings are not water tight and let in water (3 times: twice during floods and once during heavy 5-week long rain).
Tom Greenaway explained that last summer he had dug out a trench along the gable end of the property and filled it in with chips and other material that would allow water to drain away. He also advised that a new vapour barrier had been installed on top of the sub- floor in the kitchen. The Committee noted that the outside ground level was still above the level of the internal floors.
 - 6.2 Stone walls are not watertight and let in water.
The surveyor member of the Committee took damp meter readings of some of the walls of the Property:

Front bedroom:

Gable end wall- the reading was into the red and over 100 at skirting level with a sharp drop up the wall.

Front wall, to the left of the window- the reading was also into the red and measured 40/50.

Hall:

Wall between the hall and the lounge- (beyond the lounge door)- the reading was into the red and was over 100 at skirting level with a sharp drop up the wall.

Lounge:

The wall above and to the sides of the fireplace- the reading was into the red and over 100.

The wall between the lounge and the hall (beyond the lounge wall) the reading was in excess of 100.

6.3 Guttering is damaged and/or overflows.

The guttering had recently been overhauled and was in proper working order.

6.4 Roof has zero insulation.

Tom Greenaway opened the roof inspection hatch in the kitchen and the Committee saw that there was adequate glass wool insulation present.

6.5 Many velux windows do not seal properly.

The Committee inspected the velux window in the upper hall and confirmed that it was in proper working order.

6.6 Windows need to be repaired or replaced.

The Committee inspected the windows throughout the property. They were dated double glazed units which were in proper working order.

6.7 Soakaway needs to be repaired to take account of severe flooding in field nearby.

There was no evidence of the soakaway being defective at the inspection.

6.8 Sewage back floods (up the kitchen sink) and over flows onto kitchen patio during wet weather.

There was no evidence of the septic tank being defective at the inspection. Tom Greenaway explained that he suspected that the difficulties were due to nappies that had blocked the septic tank and associated pipes. These had been cleared by the Landlords' contractor.

6.9 Pump on well failed (10th September 2012) so have no water.

The Committee turned on the water taps in the kitchen and bathroom and confirmed that they were in proper working order.

6.10 Light fittings are brittle (old) and have broken one has wires hanging loose. The light fittings need to be replaced.

The light fittings throughout the Property were in proper working order. Tom Greenaway advised that they had been over hauled approximately one month ago.

6.11 Electric heaters (economy 7) proved completely inadequate during the winter and costly.

The electric storage heaters were in proper working order at the inspection.

6.12 Temperatures in the property could not be maintained above 7 centigrade during the winter.

The Property was warm at the inspection. The electric storage heaters were warm and the coal fire was lit.

6.13 There is no thermal insulation on the hot water tank.

The Committee viewed the hot water tank through the roof inspection hatch in the kitchen and confirmed that the hot water tank was insulated.

- 6.14 Barn to kitchen door is not air tight.
The Committee saw that there was a gap between bottom of the door and the floor and observed that there was a draught as a result.
- 6.15 Front interior door needs insulation.
The Committee saw that there was a gap at the base of the door.
- 6.16 The floor needs to be resealed.
The Committee inspected the floors in the Property which were in proper working order.
- 6.17 Modern plaster board needs to be removed and replaced with older style materials that can cope with moisture.
The Committee did not observe any defective plaster board in the Property, apart from the areas where damp had been detected.
- 6.18 Much of the furniture supplied was covered in mould and had to be removed.
Richard Bone advised that the Property was let unfurnished.
- 6.19 Carpets need replacing due to damp and mould.
There was no evidence of damp and mould on the carpets.
- 6.20 There are no fire detectors.
There were hardwired smoke alarms and battery operated smoke alarms in the Property which were all in proper working order.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at New Luce Memorial Hall, Main Street, New Luce, DG8 0AJ.

The Committee advised Richard Bone and Tom Greenaway that the following matters detailed in the Tenant's application complied with the Repairing Standard:

- 7.1 Guttering is damaged and/or overflows.
- 7.2 Roof has zero insulation.
- 7.3 Many velux windows do not seal properly.
- 7.4 Windows need to be repaired or replaced.
- 7.5 Soakaway needs to be repaired to take account of severe flooding in field nearby.
- 7.6 Sewage back floods (up the kitchen sink) and over flows onto kitchen patio during wet weather.
- 7.7 Pump on well failed (10th September 2012) so have no water.
- 7.8 Light fittings are brittle (old) and have broken one has wires hanging loose. The light fittings need to be replaced.
- 7.9 Electric heaters (economy 7) proved completely inadequate during the winter and costly.
- 7.10 Temperatures in the property could not be maintained above 7 centigrade during the winter.
- 7.11 There is no thermal insulation on the hot water tank.
- 7.12 The floor needs to be resealed.
- 7.13 Modern plaster board needs to be removed and replaced with older style materials that can cope with moisture.
- 7.14 Much of the furniture supplied was covered in mould and had to be removed.
- 7.15 Carpets need replacing due to damp and mould.
- 7.16 There are no fire detectors.

In relation to the remaining matters detailed in the Tenant's application the Tom Greenaway and Richard Bone advised as follows:

(I) Footings are not water tight and let in water (3 times: twice during floods and once during heavy 5-week long rain) and

(II) Stone walls are not watertight and let in water

Tom Greenaway advised the Committee that the Property has been unoccupied and unheated for approximately three months, which may partly explain the high damp readings. He only gained access to the Property last week. He accepted the high damp meter readings taken by the Committee and explained that his intention would be to install a dehumidifier to dry out the damp areas and investigate the possibility of a bridge at the gable wall in the bedroom and rising damp in the hall/living room and carry out damp proofing works.. The areas of damp plaster would be stripped back and replaced with water repelling type plaster board. He would also carry out works to the chimney to ensure no further water ingress around the chimney breast.

(III) Barn to kitchen door is not air tight.

They explained that the door provided access to the barn and had been locked as the barn was not included in the subjects that were let to the Tenant. The lock had been forced and they had recently installed new locks to the inside of the door. They explained that ultimately they would intend to block up the doorway between the barn and the kitchen.

(IV) Front interior door needs insulation.

They accepted that there was a gap at the base of the door. However they emphasised that the door is an internal door that leads to a double glazed porch.

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 presence of damp in the walls mentioned above results in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

8.2 That the fixtures, fittings and appliances provided by the Landlords 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 gaps at the base of the door between the kitchen and the barn and also the front interior door result in them not being in a reasonable state of repair and in proper working

Findings of fact

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).

9.1.1 The Committee found that the presence of damp in the front ground floor bedroom, the hall and the living room, as detailed above, DOES result in the property not being wind and watertight and in all other respects reasonably fit for human habitation.

9.2 That the fixtures, fittings and appliances provided by the Landlords 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).

9.2.1 The gaps at the base of the door between the kitchen and the barn and also the front interior door DOES result in them not being in a reasonable state of repair and in proper working.

Decision

10. The Committee accordingly determined that the Landlords have failed to comply with the duties imposed by Sections 13 (1)(a) and 13(1)(d) of the Act, as stated.
11. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1). The Repairing Standard enforcement Order has a time limit of the 17th May 2013 for the Landlords to carry out works necessary to bring the Property up to the repairing standard.
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.

J Taylor

Signed Date 7th February 2013
Chairperson