



## Repairing Standard Enforcement Order

### Ordered by the Private Rented Housing Committee

Re Milton Cottage, Dunscore, Dumfries, DG2 0UP ('the Property')

The Parties:-

Miss Jacqueline Andrews, Milton Cottage, Dunscore, Dumfries, DG2 0UP ('The Tenant')

GM Thomson & Co, Chartered Surveyors, 35 Buccleuch Street, Dumfries, acting for and duly authorised by Mrs E N Lukas Trust for Grandchildren ('The Landlords')

#### NOTICE TO

GM Thomson & Co, Chartered Surveyors, 35 Buccleuch Street, Dumfries, acting for and duly authorised by Mrs E N Lukas Trust for Grandchildren.

Whereas in terms of their decision dated 4th March 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 some of 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 and that some of the fixtures and fittings and appliances provided by the Landlords 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) Investigate and repair the water ingress in the rear wall of the kitchen at the junction with the living room.
- (2) Relocate the hot water control unit to ensure that it is easily accessible and capable of use.
- (3) Repair and/ or replace as necessary the torn and slipped floor coverings to render them safe and in proper working order.

The Private Rented Housing Committee order that these works must be carried out and completed By 30<sup>th</sup> April 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 4th March 2013.

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 Milton Cottage, Dunscore, Dumfries, DG2 0UP ('the Property')

The Parties:-

Miss Jacqueline Andrews, Milton Cottage, Dunscore, Dumfries, DG2 0UP ('The Tenant')

GM Thomson & Co, Chartered Surveyors, 35 Buccleuch Street, Dumfries, acting for and duly authorised by Mrs E N Lukas Trust for Grandchildren ('The Landlords')

#### 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) 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 14<sup>th</sup> November 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 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; 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 and Any furnishings provided by the Landlords under the tenancy are not capable of being used safely for the purpose for which they are designed.

In particular the application stated that:-

2.1 Both the front and back doors are not wind and water tight. The front door is disintegrated, the outside of the door is split and mouldy and letting in water. The key is also rusted in the lock. The back door is an internal door and so is the frame, water is coming in this door. I also query if the door frames are adequate.

2.2 The Night storage heaters are too small to adequately heat the room sizes. The rooms are very big and the ceilings are very high. I always have to use an electric fan heater for extra heat, and these are very expensive to run and as a result my electricity bills are very high.

2.3 The carpet in the lounge has not been fitted to a good standard and parts of it are coming away from the wall. The lino in the kitchen and hall are very worn and torn in

places. It gets very wet at the area of the back door as water is getting in. The carpet in bedroom 1 at the entrance is badly torn and could cause me to trip.

2.4 The mould in the kitchen wall is caused by a damp patch.

2.5 The booster switch for the hot water is not within anybody's reach.

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 7<sup>th</sup> January 2013.
5. The Committee attended at the Property on 26<sup>th</sup> February 2013. The Tenant and her representative Lynne Davis of CAB, Dumfries, were present. The Landlords were not present or represented at the inspection.

The Committee inspected the alleged defects and found as follows:-

5.1 Both the front and back doors are not wind and water tight. The front door is disintegrated, the outside of the door is split and mouldy and letting in water. The key is also rusted in the lock. The back door is an internal door and so is the frame, water is coming in this door. I also query if the door frames are adequate.

Both the front and back doors and door frames had been replaced. New PVC double glazed doors and PVC door frames had been fitted.

5.2 The Night storage heaters are too small to adequately heat the room sizes. The rooms are very big and the ceilings are very high. I always have to use an electric fan heater for extra heat, and these are very expensive to run and as a result my electricity bills are very high.

Lounge: There is a night storage heater in the lounge and also a coal fire. The night storage heater was working at the inspection and was hot to the touch. The Tenant advised that she only used the coal fire for providing hot water. She was unable to use it as a source of heat due to her medical condition.

Kitchen: There is an electric panel heater on the wall of the kitchen, which was not being used at the inspection but worked when it was turned on.

The Tenant's Bedroom to the front of the Property: The Tenant used the Night storage heater in this bedroom which was working at the inspection and was also warm to the touch.

The other two bedrooms: There are night storage heaters in these bedrooms that the Tenant only uses when visitors are staying. They were not being used at the time of the inspection.

5.3 The carpet in the lounge has not been fitted to a good standard and parts of it are coming away from the wall. The lino in the kitchen and hall are very worn and torn in places. It gets very wet at the area of the back door as water is getting in. The carpet in bedroom 1 at the entrance is badly torn and could cause me to trip.

Lounge: There were two carpets in the lounge. The upper carpet had crept away from internal wall opposite the fireplace and had moved towards the fire place by approximately two or three centimetres.

Kitchen: The lino was torn at the doorway and the Tenant advised that it was also torn under the fridge freezer, but this was not visible to the committee at the inspection.

Hall: The lino was torn in places.

Bedroom 1: The carpet was torn at the doorway.

The Tenant's bedroom to the front of the Property: The carpet was torn at the entrance to the room.

5.4 The mould in the kitchen wall is caused by a damp patch.

There was evidence of some mould on the external wall near the ceiling. The surveyor member of the committee took a damp meter reading which confirmed the presence of dampness.

5.5 The booster switch for the hot water is not within anybody's reach.

The hot water control panel was located high up the wall in the hall and consequently it was inaccessible to the Tenant.

6. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Lochside Community Centre, Lochside, Dumfries. Lynne Davis of CAB Dumfries, (the Tenant's representative) and Carolyn Davies of G M Thomson (the Landlords' agent and representative) attended the hearing.

In relation to the matters detailed in the Tenant's application the Tenant's agent and the Landlords' agent advised as follows:

6.1 Both the front and back doors are not wind and water tight. The front door is disintegrated, the outside of the door is split and mouldy and letting in water. The key is also rusted in the lock. The back door is an internal door and so is the frame, water is coming in this door. I also query if the door frames are adequate.

They confirmed that the doors had been satisfactorily replaced.

6.2 The Night storage heaters are too small to adequately heat the room sizes. The rooms are very big and the ceilings are very high. I always have to use an electric fan heater for extra heat, and these are very expensive to run and as a result my electricity bills are very high.

Lynne Davis, the Tenant's agent, acknowledged that the heaters were working. Carolyn Davies, the Landlords' agent, explained that the heaters were working and in her view they complied with the repairing standard. She also advised that the particulars advertising the property for let had explained that the heaters were dated.

6.3 The carpet in the lounge has not been fitted to a good standard and parts of it are coming away from the wall. The lino in the kitchen and hall are very worn and torn in places. It gets very wet at the area of the back door as water is getting in. The carpet in bedroom 1 at the entrance is badly torn and could cause me to trip.

Carolyn Davies, the Landlords' agent, explained that she had arranged for carpet fitters to call at the Property on 22<sup>nd</sup> January 2013. They had agreed to provide two men to enable the furniture to be moved whilst the carpets were fitted properly. She explained that she intends to replace the carpets in Bedroom 1, glue the sections of torn lino in the hall and the kitchen, remove the top lounge carpet to determine the condition of the carpet below and investigate the torn carpet in the bedroom used by the Tenant. She emphasised that she is happy to sort out the problems with the carpets and the flooring but requires access to be made available.

6.4 The mould in the kitchen wall is caused by a damp patch.

Lynne Davis, the Tenant's agent, advised that the area of dampness has increased in size since Christmas. She acknowledged that the fact that the Tenant does not use the heater in the kitchen may contribute to the problem.

Carolyn Davies, the Landlords' agent, explained that she was having difficulties arranging access with the Tenant for the roofing contractor to inspect the Property. She wants to pin point the problem before instructing any works to be done.

6.5 The booster switch for the hot water is not within anybody's reach.

Lynne Davis, the Tenant's agent, accepted that the booster switch works but explained that the problem is that it is out of reach.

Carolyn Davies, the landlords' agent, explained that she has managed the Property for approximately 15 years and the position of the hot water booster switch has never been raised with her before.

### **Summary of the issues**

8. As stated above, the Tenant confirmed at the inspection that front and back doors to the property had been satisfactorily replaced.

Therefore 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 dampness in the kitchen results in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

- 8.2 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 (Section 13(1)(c) of The Housing (Scotland) Act 2006).

Whether the panel heater in the kitchen, the night storage heaters throughout the rest of the Property and the hot water booster switch are in a reasonable state of repair and proper working order.

- 8.3 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 carpets and lino throughout the Property are in a reasonable state of repair and in proper working

### **Findings of fact**

The committee found:-

- 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 dampness in the kitchen does result in the Property NOT being wind and watertight and in all other respects reasonably fit for human habitation.

- 9.2 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 (Section 13(1)(c) of The Housing (Scotland) Act 2006).

- 9.2.1 The panel heater in the kitchen and the electric storage heaters through out the Property were in working order. The repairing standard does require them to meet an efficiency test. Therefore these items ARE in a reasonable state of repair and proper working order.

9.2.2 The location of the hot water booster panel meant that it was out of reach and could not easily be used. Therefore it is NOT in a reasonable state of repair and proper working order.

**9.3 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).**

9.3.1 The torn and slipped carpets and the torn lino and NOT in a reasonable state of repair and in proper working order.

**Decision**

10. The Committee accordingly determined that the Landlords had failed to comply with the duties imposed by Sections 13 (1)(a), 13(1)(c), 13(1)(d) and 14 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 30<sup>th</sup> April 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 4<sup>th</sup> March 2013  
Chairperson