



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re 22 Traquair Avenue, Paisley, being the subjects registered in the land Register of Scotland under Title Number REN63480 ('the Property')

The Parties:-

Ross O'Donnell, sometime residing at 22 Traquair Avenue, Paisley ('The Tenant')

Thomas Johnstone Adleigh and Kim Marina Adleigh residing sometime at 22 Traquair Avenue, paisley and now residing in Australia ('The Landlords')

NOTICE TO

The Landlords, the said Thomas Johnstone Adleigh and Kim Marina Adleigh

Whereas in terms of their decision dated 9th March 2012, 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 and 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 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) Eradicate the dampness in the porch ceiling and carry out necessary redecoration.
- (2) Carry out any necessary repairs to render the boiler and central heating system in proper working order.
- (3) On completion of the works specified in paragraph (2) hereof to exhibit a valid Gas Safety Certificate confirming that installation is safe and free from defects.

The Private Rented Housing Committee order that these works must be carried out and completed By 12th June 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.

Signed..... **J Taylor** Date 9th March 2012

Chairperson
Keirsten Byrne

..... witness: KEIRSTEN BYRNE, 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 22 Traquair Avenue, Paisley, being the subjects registered in the land Register of Scotland under Title Number REN63480 ('the Property')

The Parties:-

Ross O'Donnell, sometime residing at 22 Traquair Avenue, Paisley ('The Tenant')

Thomas Johnstone Adleigh and Kim Marina Adleigh residing sometime at 22 Traquair Avenue, Paisley and now residing in Australia ('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 9th December 2011 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 and 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.

In particular the application stated: 'The boiler needed to be replaced and the heating system and radiators require to be flushed. Also the ceiling in the porch needs to be taken down and replaced and the roof needs to be repaired as well as the windows and door which leak.'

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 Tenant and Martin & Co, 9 Canal Street, Paisley, PA1 2HD, (who were at that time the Landlords' agents). The Notice of Referral was dated 19th December 2011.

5. The Committee attended at the Property on 1st March 2012. The parties were not present. The Tenant had vacated the Property however access was provided by a relative of the Landlords.

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

5.1 Boiler/ Central Heating system.

The central heating was not operating and therefore the Committee were unable to determine if it was in proper working order. There was a label on the boiler advising that the boiler had been inspected on 16th December 2011. There was also evidence of a warning notice which had been partly removed.

5.2 Porch

There was evidence of water damage to the ceiling of the porch. The surveyor member of the committee tested the ceiling with a damp meter and confirmed that the readings were off the scale and the ceiling was very damp. There was no evidence to suggest that the windows and door of the porch were not wind and water tight.

Summary of the issues

6. The issues to be determined are:-

6.1 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 porch ceiling, windows and door result in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

6.2 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 boiler and central heating system are in a reasonable state of repair and proper working order

Findings of fact

The committee found:-

- 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).**

The damp to the ceiling of the porch does result in the Property not being wind and water tight.

The committee considered that the windows and the door of the porch were in a reasonable condition and there was no evidence indicating that they were not wind and water tight.

- 7.2 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).

The gas safety certificate exhibited to the Committee by Martin & Co indicated that repairs were required to the boiler with the result that the boiler was not in a reasonable state of repair and proper working order.

The Committee acknowledged that the central heating system was not operating at the time of the inspection. However the Tenant had advised in correspondence that the system was not working correctly at the time of the application. Further the Landlords had not demonstrated to the Committee that the system was in proper working order and at the inspection there was no evidence to suggest that repairs had been carried out to the system. Therefore the committee concluded that the central heating system was not in a reasonable state of repair and proper working order.

Decision

8. The Committee accordingly determined that the Landlord had failed to comply with the duties imposed by Sections 13 (1)(a), 13(1)(c) and 14 of the Act, as stated.
9. 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 2012 for the Landlords to carry out works necessary to bring the property up to the repairing standard
10. The decision of the Committee was unanimous.

Right of Appeal

11. **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

12. 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 9th March 2012