



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re 22 Aspen Crescent, Georgetown, Dumfries, DG1 4QF ('the Property')

The Parties:-

Edward Gallacher residing at 22 Aspen Crescent, Georgetown, Dumfries, DG1 4QF ('The Tenant')

ES and R Stainthorpe residing at 3 Ways Cottage, Ruthwell, Dumfries, DD1 4NN ('The Landlords')

NOTICE TO

ES and R Stainthorpe residing at 3 Ways Cottage, Ruthwell, Dumfries, DD1 4NN

Whereas in terms of their decision dated 21st 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 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 the fixtures, fittings and appliances provided by the Landlords under the Tenancy are capable of being used safely for the purpose for which they are designed.

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) Clean the gutters to render them in proper working order.
- (2) Repair or replace the shower to render it in proper working order.
- (3) Repair the three internal doors in the hall to render them in proper working order.

The Private Rented Housing Committee order that these works must be carried out and completed By 31st 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 21st 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 22 Aspen Crescent, Georgetown, Dumfries, DG1 4QF ('the Property')

The Parties:-

Edward Gallacher residing at 22 Aspen Crescent, Georgetown, Dumfries, DG1 4QF ('The Tenant')

ES and R Stainthorpe residing at 3 Ways Cottage, Ruthwell, Dumfries, DD1 4NN ('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 14th December 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 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 furnishings provided by the landlords under the tenancy are 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:-

- 2.1 The gutters are full of moss and water pours out of them.
 - 2.2 There is a hole in the roof at one of the waste pipes.
 - 2.3 The shower is not working.
 - 2.4 The cooker hood is not piped outside.
 - 2.5 Three doors in the hall do not close properly.
 - 2.6 The living room door is faulty.
 - 2.7 Kicking plates are missing in the kitchen.
 - 2.8 The bath is now fixed but I waited for three months for this to be done.
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 27th January 2011.
5. The Committee attended at the Property on 13th March 2013. The Tenant and the Landlord's representatives, Carol Stainthorpe and Shona McKenzie, were present.

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

5.1 The gutters are full of moss and water pours out of them.

There are weeds and grass growing out of the gutters at the front and rear of the Property.

5.2 There is a hole in the roof at one of the waste pipes.

The trap door to the roof space was located in the ceiling of the hall. The Tenant propped open the trap door and the Committee were able to see daylight from spaces around a waste pipe as it protruded through the roof. There was no evidence of this gap causing dampness in the Property.

5.3 The shower is not working.

There is a Priston electric shower over the bath. The Tenant turned on the shower. When the control dial was turned to sufficient water pressure to take a shower the water was luke warm. When the water pressure was turned down the water temperature increased but the water pressure reduced and was not sufficient to reasonably take a shower.

5.4 The cooker hood is not piped outside.

The cooker was not vented to the outside of the Property but it worked effectively.

5.5 Three doors in the hall do not close properly.

The three wooden internal doors in the hall did not close properly.

5.6 The living room door is faulty.

The Tenant advised the Committee that the entrance door to the living room did not operate properly as the hinges are not secure and the door catches the carpet when it is closed. The surveyor member of the Committee inspected the door, the alleged defects were not apparent at the inspection and he considered it to be in proper working order.

5.7 Kicking plates are missing in the kitchen.

The Tenant showed the Committee the kitchen units. Kick plates had been fitted to the front of the units but the kick plates had not been continued around the side of the units.

5.8 The bath is now fixed but I waited for three months for this to be done.

The Tenant confirmed that the bath was now working properly.

5.9 Smoke Alarms.

There was a battery operated smoke alarm in the property that was in working order.

6. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Georgetown Community Centre, Georgetown, Dumfries, DG1 4DF.

The Tenant and the Landlord's representatives, Carol Stainthorpe and Shona McKenzie attended the hearing.

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

6.1 The gutters are full of moss and water pours out of them.

The Tenant explained that when it is raining the gutters overflow. Shona McKenzie accepted that the gutters need to be cleaned out. She explained that this was a communal repair but that a contractor has already been paid by the Landlords to do the work but the job has still to be completed.

6.2 There is a hole in the roof at one of the waste pipes.

The Tenant advised that loft insulation had been installed in October 2012. The contractors did not want to install insulation below the pipe as there are gaps where the pipe protruded out of the roof. He advised that he was not aware of any water coming into the Property through the gaps.

Shona McKenzie emphasised that there was no evidence of water ingress. Carol Stainthorpe explained that her father, who is one of the Landlords, told her that the pipe is supposed to protrude through the roof.

6.3 The shower is not working.

The Tenant explained that when you turn the shower control dial to increase the heat of the water the power of the water flow decreases and it is no longer a shower but a 'running tap'.

Shona McKenzie advised that as far as she was concerned the shower works.

6.4 The cooker hood is not piped outside.

The Tenant advised that he is not really concerned about this item.

Shona McKenzie explained that the cooker hood was an internal cooker hood with an internal filter.

6.5 Three doors in the hall do not close properly.

The Tenant explained that the three internal doors in the hall do not close properly. Shona McKenzie explained that the doors do not close correctly because the Property is not being heated properly by the Tenant.

6.6 The living room door is faulty.

The Tenant explained that when you open the living room door it moves back the carpet.

Shona McKenzie advised that living room door opens and closes properly.

6.7 Kicking plates are missing in the kitchen.

The Tenant explained that the side kick plates below the kitchen units are missing. Shona McKenzie advised that the units are in proper working order. There is no requirement for side kick plates to be installed.

6.8 The bath is now fixed but I waited for three months for this to be done.
The Tenant confirmed that the bath had been repaired.

Shona McKenzie gave the Tenant and the Committee copies of a letter from the Landlords explaining the background of the lease, which she read aloud.

Summary of the issues

7. As stated above, the Tenant confirmed at the inspection and the hearing that the bath had been satisfactorily repaired.

Therefore the issues to be determined are:-

- 7.1 The Property is 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 fact that daylight can be seen around the pipe that protrudes through the roof 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 (including drains, gutters and external pipes) are 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 gutters results in the Property not being in a reasonable state of repair and proper working order.

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

Whether the shower and the cooker hood are in a reasonable state of repair and proper working order.

- 7.4 Any Fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

Whether the three doors in the hall, the living room door and the kick plates below the kitchen units are in a reasonable state of repair and in proper working order.

- 7.5 The Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (section 13(1)(f) of The Housing (Scotland) Act 2006).

Whether there is satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Findings of fact

8. The committee found:-

9.1 The Property is wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

The fact that daylight can be seen around the pipe that protrudes from the roof has not resulted in water ingress to the Property and does NOT result in the Property not being wind and watertight and in all other respects reasonably fit for human habitation.

9.2 The structure and exterior of the property (including drains, gutters and external pipes) are in a reasonable state of repair and proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

The choked gutters results in the gutters NOT being in a reasonable state of repair and proper working order.

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

The shower does not work properly and therefore it is NOT in a reasonable state of repair and proper working order.

The cooker hood is an internal fitting that does not require to be connected to an external vent therefore it is in a reasonable state of repair and proper working order.

9.4 Any Fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and proper working order (Section 13(1)(d) of The Housing (Scotland) Act 2006).

The three internal doors in the hall do not close properly and therefore are NOT in a reasonable state of repair and in proper working order.

The living room door and the kick plates in the kitchen are not defective and are in a reasonable state of repair and proper working order.

9.5 The Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (section 13(1)(f) of The Housing (Scotland) Act 2006).

The battery operated smoke alarm is in working order and therefore the Property does have a satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Decision

10. The Committee accordingly determined that the Landlords have failed to comply with the duties imposed by Sections 13(1)(b), 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 the 31st 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 21st March 2013
Chairperson