



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re Laverockhall Cottage, Old Glasgow Road, Stewarton, KA3 5JU ('the Property')

The Parties:-

Dr Urmila Ratnasabapathy residing at Laverockhall Cottage, Old Glasgow Road, Stewarton aforesaid ('The Tenant')

Mr Porter per J C Roxburgh properties Limited, 35 Main Street, Stewarton, KA3 5BS ('The Landlord')

NOTICE TO

Mr Porter per J C Roxburgh Properties Limited, 35 Main Street, Stewarton, KA3 5BS

Whereas in terms of their decision dated 23rd April 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 and that the Property has a satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

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 of the sunroom to render it watertight.
- (2) Repair the greenhouse to render it wind and water tight.
- (3) Eradicate the dampness in the snug room and front bedroom of the property and carry out necessary redecoration.
- (4) Install hardwired smoke alarms to ensure that they fully comply with current requirements.

The Private Rented Housing Committee order that these works must be carried out and completed By 30th 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 23rd April 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 Laverockhall Cottage, Old Glasgow Road, Stewarton, KA3 5JU ('the Property')

The Parties:-

Dr Urmila Ratnasabapathy residing at Laverockhall Cottage, Old Glasgow Road, Stewarton aforesaid ('The Tenant')

Mr Porter per J C Roxburgh Properties Limited, 35 Main Street, Stewarton, KA3 5BS ('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 January 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 she considered that the Landlord has failed to comply with his 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 fixtures, fittings and appliances provided by the Landlord under the tenancy were not in a reasonable state of repair and in proper working order 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 Nine doors within the property do not fit correctly and cannot be shut completely.
- 2.2 The sun roof leaks regularly.
- 2.3 The glass greenhouse has been badly damaged by the spates of bad weather.
- 2.4 General conditions of dampness prevail within the house.
- 2.5 The Landlord's Jaguar Car and ride on lawnmower within the double garage require to be removed.

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 6th February 2012.

5. Following service of the Notice of referral the Committee received written representations from the Tenant and the landlord.

6. The Committee attended at the Property on 12th April 2012. The Tenant, The Landlord, and Fiona Smyth of J C Roxburgh, the Landlord's agent, were present. The Committee inspected the alleged defects and found as follows:-

6.1 Nine doors within the property do not fit correctly and cannot be shut completely.

The doors had recently been repaired and were in proper working order.

6.2 The sun roof leaks regularly.

There was evidence of dampness in the wooden roof lining of the sun room at the rear of the Property. The surveyor member of the Committee tested part of the damp section with the damp meter. The reading was in the range 28 to 30, confirming evidence of dampness.

The parties advised the Committee that the external flashing between the tiled surface of the main roof and the flat roof of the sun room had been replaced last year.

6.3 The glass greenhouse has been badly damaged by the spates of bad weather.

The green house was situated in the garden at the rear of the Property. There were glass panes missing and one of the doors was hanging off the hinges.

6.4 General conditions of dampness prevail within the house.

The Tenant showed the Committee evidence of dampness in the following rooms of the Property:

6.4.1 The living room

There was some staining to the side wall and part of the ceiling of the living room. The surveyor member of the Committee tested the stained areas with the damp meter. The reading was in the range 13 to 14, and within normal and acceptable parameters.

6.4.2 The snug room.

The surveyor member tested the damp sections of the lined wall to the front of the property and the area around the front window with the damp meter and the readings were between 10 and 15 and within normal and acceptable parameters. The readings taken at the solid internal wall (between the snug and the bedroom) were in the range 11 to 23 confirming the presence of dampness.

6.4.3 The Front bedroom

There was evidence of dampness to the internal solid wall between the bedroom and the snug. The wall was damp to the touch. The surveyor member tested the wall with the damp meter. The readings were in the range 20 to 30+ confirming the presence of significant dampness.

6.5 The Landlord's Jaguar Car and ride-on lawnmower within the double garage require to be removed.

The Committee was shown inside the double garage adjacent to the Property and saw that an old Jaguar car and ride-on lawn mower were in one half of the garage. The parties advised that they belonged to the Landlord.

6.6 The Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

The Committee noted that a number of fire angel smoke alarms had been installed within the Property. The original battery operated smoke alarms were still in situ. They were not inter linked.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Area Centre, Stewarton.

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

- 7.1 Nine doors within the property do not fit correctly and cannot be shut completely.
The parties confirmed that the doors had been repaired.
- 7.2 The sun roof leaks regularly.
The Tenant advised that the sunroom roof leaks when it is raining, especially from the area where the sunroom roof joins the main roof of the property.
The Landlord advised that the flashing between the main roof of the Property and the sunroom had been replaced in September/ October 2011. He explained the water that accumulated on the floor of the sun room was due to the fact that the Tenant had not replaced the weather bar that had become detached from the bottom of the sunroom door.
- 7.3 The glass greenhouse has been badly damaged by the spates of bad weather.
The Tenant advised that her son's football had damaged one pane of glass and her cat had caused another pane of glass to be damaged. The Landlord had replaced these damaged panes. However she explained that the majority of the damage had been caused by the high winds.
The Landlord advised that he had replaced a total of ten panes of glass. He confirmed that some of the damage had been caused by the high winds at the end of last year.
- 7.4 General conditions of dampness prevail within the house.
7.4.1 Living Room
The parties acknowledged that there was no evidence found during the inspection.
7.4.2 Snug Room and Front Bedroom
The Landlord explained that he suspects that the dampness found in these rooms is caused by condensation in the Property. He explained that this may be due to the fact that the Tenant does not adequately heat or ventilate the Property.
The Tenant disputed this explaining that there is both central heating and electric heating in the Property. She advised that she spends a significant amount of money on both gas and electricity bills.
- 7.5 The Landlord's Jaguar Car and ride on lawnmower within the double garage require to be removed.
The Committee advised the parties that the presence of the Jaguar car and the ride-on lawnmower in the garage was not part of the obligations under the repairing standard.
- 7.6 The Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
The Tenant explained that at the commencement of the lease there were battery operated fire alarms in the snug room, dining room and the upper floor of the Property. In January 2011 she contacted the Fire Authority who visited the property and installed supplementary fire angel smoke detectors as the battery operated alarms were not working at that time. She acknowledged that in terms of the lease she was obliged to replace the batteries in the battery operated alarms as required. She further advised that when the fire authority carried out their annual check at the beginning of this year they told her that the smoke alarms in the property should be mains wired.
The Landlord advised that the battery operated smoke alarms were fully operational at the commencement of the lease. He suggested that the alarms may not have been working at the time of the fire authority inspection as the Tenant may not have replaced the batteries. Fiona Smyth explained that it was her understanding that in these circumstances there was no requirement for hard wired smoke alarms to be installed.

Summary of the issues

8. As stated above, the Tenant confirmed at the inspection and the hearing that the doors had been satisfactorily repaired and the Committee agreed that the presence of the Jaguar Car and the ride- on lawn mower in the garage was not a part of the repairing standard.

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 dampness found in the snug and front bedroom was penetrating damp or rising damp resulting in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

Whether the leak to the sun room roof and the condition of the greenhouse results in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

- 8.2 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

- 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).

The Committee acknowledged the Landlord's submissions that the dampness found in the Property was due to condensation, caused by lack of heating and lack of ventilation. However the Tenant's submissions were that she did adequately ventilate and heat the Property.

As neither the Landlord nor the Tenant had produced evidence in support of their submissions the Committee relied on the particularly high damp meter readings taken at the inspection. They considered that on balance the high damp meter readings would have been caused by either rising or penetrating damp and therefore they found that dampness in the snug and front bedroom does result in the Property NOT being wind and water tight and in all other respects reasonably fit for human habitation.

They also found that the leak to the sunroom roof and the condition of the greenhouse results in the Property NOT being wind and water tight and in all other respects reasonably fit for human habitation.

- 9.2 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 Committee acknowledged that there were a number of battery operated smoke alarms in the property at the commencement of the lease and that after

the fire authority installed fire angels the Tenant relied on the fire angels and had not maintained the batteries in the original smoke alarms, which the parties confirmed were not working at the time of the inspection.

The terms of BS5839 requires multiple alarms to be interlinked and specifies that if the smoke alarms have been replaced after 3rd September 2007 the replacement smoke alarms must be hardwired.

The Committee acknowledged that the Tenant was responsible for arranging the installation of the replacement fire angels however this does not alter the fact that the smoke alarms in the Property at the time of the inspection did not comply with BS5839.

Consequently the lack interlinked and hardwired smoke alarms means that the Property does NOT 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 Landlord had failed to comply with the duties imposed by Sections 13 (1)(a) and 13(1)(f) 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 30th June 2012 for the Landlord to carry out works necessary to bring the property up to the repairing standard.

12. The decision of the Committee was unanimous (with the exception of the decision reached in relation to paragraph 9.2 hereof which was a majority decision).

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 23rd April 2012
Chairperson