



**REPAIRING STANDARD ENFORCEMENT ORDER**

**BY THE**

**PRIVATE RENTED HOUSING COMMITTEE**

**PRHP Ref: prhp/ab51/3/12**

**PROPERTY**

**The Retreat, Daviot, Inverurie, registered under Title Number ABN98474**

**PARTIES**

**Alan Watt and Ms Linda Gibbon, residing at the property  
("the Tenants")**

**Eric Neil (Bakers) Limited, incorporated under the Companies Acts, Company Number  
SCO74000, and having its Registered Office at 12 – 16 Albyn Place, Aberdeen  
("the Landlords")**

**REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO') AGAINST,**

- 1. WHEREAS** in terms of their decision dated 18 May 2012 the Private Rented Housing Committee ('the Committee') determined that the landlord has failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 ('the Act') and in particular the property fails to meet the repairing standard as set out in section 13(1) of the Act.

2. The Committee now requires the landlord carry out such work as is required to ensure the property meets the repairing standard and that any damage caused as a consequence of carrying out of any works in terms of this Order is also made good before the expiry of the Completion Date.

**THE ORDER**

3. In particular, and without prejudice to the foregoing generality, the Committee **HEREBY ORDERS** the landlord to carry out the following repairs ('the Works');-

3.1 To have the storage heating system including the installation and the heaters inspected by a qualified electrician, and to obtain a report and to implement any recommendations in the report.

3.2 To obtain a Periodic Inspection Report from a qualified electrician and to obtain PAT certification in respect of all electrical appliances.

3.3 To carry out necessary repairs to the roof in order to eliminate the ingress of water.

3.4 To repair the threshold on the front door to render it wind and watertight.

3.5 To replace or repair the putty on the metal framed skylight in the cupboard in the hall.

3.6 To check the pointing on the gable end of the property and to effect necessary repairs.

3.7 To repair the rotten window frame in the right hand side window in the north elevation of the living room.

4. The Committee **HEREBY FURTHER ORDERS** that the Works specified in this Order must be carried out and completed before the expiry of the Completion Date of four months from the date of service of this Order.

**RIGHT OF APPEAL**

5. A landlord or tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

**EFFECT OF APPEAL**

6. In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

**IN WITNESS WHEREOF** these presents typewritten consisting of this and the preceding two pages are subscribed as follows:

D Preston

Chairman

29/5/12

Date of Signing

Carskoy

Place of Signing

J Thomson

Witness

JEANETTE THOMSON

Name

BOTHWELL HOUSE

Address

HAMILTON BUS PARK

CAIRD PARK

ML3 0QA



**PRIVATE RENTED HOUSING COMMITTEE**

**STATEMENT OF DECISION UNDER SECTION 24(1) OF THE HOUSING  
(SCOTLAND) ACT 2006**

**PRHP Ref: prhp/ab51/3/12**

**PROPERTY:**

**The Retreat, Daviot, Inverurie**

**INSPECTION & HEARING**

**18 May 2012**

**The Parties:-**

**Alan Watt and Ms Linda Gibbon, residing at the property  
("the Tenants")**

**Eric Neil (Bakers) Limited, incorporated under the Companies Acts,  
Company Number SCO74000, and having its Registered Office at 12 – 16  
Albyn Place, Aberdeen ("the Landlords")**

**Decision**

**The Committee, having made such enquiries as is fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the property, determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act").**

**Background**

- 1. By application dated 28 December 2011 the Tenants applied to the Private Rented Housing Panel (PRHP) for a determination of whether the Landlords had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").**

2. The application by the Tenants stated that they considered that the Landlords had failed to comply with their duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-

(a) The house is wind and watertight and in all other respects reasonably fit for human habitation.

(b) The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.

(c) Any fixtures, fittings and appliances supplied by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.

3. The President of PRHP served Notice of Referral dated 7 March 2012 under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlords and the Tenants. Following service of the Notice of Referral written representations dated 5 April 2012 were received from the Landlords no further written representations were received from the Tenants.

4. Notification of Inspection and Hearing was served on the Landlords and Tenants by Notice dated 27 April 2012

The Committee comprised the following members:

Mr. David M Preston, Legal Member

Mr. Colin Hepburn, Surveyor Member

Ms Linda Robertson, Housing Member

5. The Committee inspected the Property on the morning of 18 May 2012. The Landlords were neither present nor represented and Tenants were in attendance.

6. Following the inspection of the Property the Committee held a hearing at the Garioch Sports Centre, Burghmuir Drive, Inverurie. The hearing was attended by both parties, Mr Eric and Mrs Norma Neil attending on behalf of the Company.

7. The Committee had regard to the terms of the application and the email from the Tenants dated 18 January 2012 together with the accompanying photographs and the Landlords representations dated 5 April 2012. The Surveyor member of the Committee took photographs (attached) during the inspection to which the Committee also referred. In addition the Committee heard both parties at the Hearing.

8. The application and papers referred to the following issues in respect of which it was alleged that the property failed to meet the repairing standard:-

- 8.1. The heating in the property does not work.
- 8.2. The roof is leaking.
- 8.3. Part of the bathroom wall has collapsed and water runs down the wall.
- 8.4. The living room and kitchen ceilings leak.
- 8.5. The living room side window is falling apart and the bottom of the frame has rotted causing severe draught.
- 8.6. The cupboard window is leaking water and wind blows into it causing a severe draught.
- 8.7. The front door has no seal on it allowing rain and snow to blow under it.

#### **Summary of issues**

9. The issue to be determined was whether the property meets the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duty imposed by Section 14(1)(b).

#### **Findings in Fact**

10. The Committee finds the following facts to be established:-
  - 10.1. In February 2010 the Tenants moved into the property and paid £500 per month by way of rent for a period of approximately two years when they withheld the rent due to the difficulties they reported in having their complaints attended to. As the Tenants have occupied the property with the consent of the Landlords and have paid a regular payment of rent over a period of approximately two years there is an assured tenancy notwithstanding that there is no written lease.
  - 10.2. The property is a self contained first floor flat situated above the former post office in the village of Daviot. The Tenants stated that the building is listed. The main walls are of solid stone and concrete blockwork construction pointed and cement rendered , while the roof is of pitched and slated construction , incorporating a dormer window projection to the side elevation ,which appears to be clad with bituminous felt .There appears to be no under slating felt to the main slated sections visible within the roof space.
  - 10.3. The accommodation is all on one floor and comprises lounge , kitchen , 3 bedrooms and bathroom. It has a gross internal area of approximately 99m<sup>2</sup>

- 10.4. The property is mostly double glazed with a mixture of timber casement type windows .the roof light to the box room is however a single glazed metal skylight.
- 10.5. There is an attached garage of stone and block construction under a single skin corrugated asbestos roof.
- 10.6. There is a fixed electric storage and electric panel heating system installed, but this seems to be on a single rate tariff meter, with no sign of the heating being connected to an economy rate tariff.
- 10.7. With regard to the points raised in the application the inspection revealed:-
  - 10.7.1. The heating system in the house is defective and requires to be inspected by an approved electrical contractor. The Landlords had provided a wood burning stove for the use of the Tenants, but this had not been installed and it was apparent that to do so would involve some difficulty due to the construction of the floor and the need to install a flue. The Landlords had also provided three radiators, but these had not been tested and carried no certification.
  - 10.7.2. The roof is leaking in a number of areas resulting in the ingress of water in the living room, kitchen and bathroom in particular. The roof requires to be inspected and repaired to eliminate such ingress. In addition, the window in the gable end of the property showed signs of water ingress in the area above the window which requires to be investigated and repaired. There appears to be a waste ventilator pipe in the vicinity of the damage to the wall in the bathroom in respect of which the flashing may have deteriorated. This should be attended to as in 10.3.2.
  - 10.7.3. The right hand side window of the living room window to the front (north) of the property is rotten and should be repaired or replaced. The Committee noted in the inspection that the window in the bathroom is similarly rotten.
  - 10.7.4. There is a metal framed skylight window in the cupboard in the hall. There are signs of dampness around the skylight but this was considered to be normal condensation as would be expected from such a fitting and was not excessive. The putty around the window was, however seen to be defective and requires attention and repair.

10.7.5. The front door was seen to have no threshold resulting in a gap beneath the door which would allow rain and snow into the house.

10.7.6. The Landlords stated that the Tenants had made unauthorised alterations by installing electricity to the garage. This was inspected and the Committee found that the electrical fittings in the garage were of some age and pre-dated the Tenants' occupation. No evidence of recent fittings or lights was seen.

11. During the inspection the Committee noted that there did not appear to be a Periodic Inspection Report of the electrical system and the appliances did not appear to carry PAT certification. Notwithstanding the lack of complaint in the application, the Committee determined that such certification should be obtained as this was an obligation on the Landlords.

#### **Reasons for the decision**

12. The Committee took into account the written representations and photographs from the parties and their oral evidence as well as the results of the inspection. There were clearly a number of issues between the parties and it was apparent that communications had broken down resulting in an inability to cooperate in the necessary work. The Landlords reported that they had attempted to gain access to the property on a number of occasions and entry had been refused but the Tenants contended that this had only happened on one occasion at Christmas when they had house guests. The Committee endeavoured to focus on the condition of the property as opposed to any difficulties from the past.

13. In relation to the heating system, the Committee was not qualified to carry out necessary checks on the equipment or the installation. Accordingly it determined that a report should be obtained from a suitably qualified and approved electrician and any recommendations therein should be implemented. It was agreed between the parties that the wood burning stove was not a feasible option. The heaters provided by the Landlords were inspected by the Committee and appeared to be second hand and did not carry the PAT certification.

14. In relation to the complaints about water ingress in the ceilings in a number of rooms, it was apparent to the Committee that there is a problem with the condition of the roof of the property. The parties were aware of the problem and efforts had been made to obtain a quotation from a roofing contractor but this had not been possible for a number of reasons upon which the parties were unable to agree. The structure of the roof involves a slated pitched roof which meets a felt sloping flat roof. The water ingress appeared to the committee to be consistently in the area of the junction between the slates and felt.



15. The window surround in the gable end window appeared from the photographs produced by the Tenants to have water ingress. This should be investigated and the pointing on the gable wall attended to where necessary.
16. The side window in the living room was seen to be rotten. The Landlords contended that the damage had been caused by the Tenants pouring buckets of water through the window while cleaning cars below. The Committee rejected that contention as the extent of the rot was not consistent with any damage that might have been caused in this way. The Tenants had only been in occupation of the property for less than three years and the damage was considerably older than that. The Committee noted during the inspection that the window in the kitchen was also suffering from rot and whilst no order is made in that regard, the Landlords would be prudent to attend to this.
17. The window in the cupboard complained of was seen to be a metal framed single glazed skylight unit with signs of condensation around. The Committee did not consider that the condition of the window fell below the repairing standard apart from the putty which requires to be replaced.
18. The condition of the threshold at the front door was seen on inspection to suffer from the problems complained of.
19. The electrical fittings in the garage were seen to be of some age and it was clear to the Committee had not been fitted or installed during the Tenants' occupation.

### **Decision**

20. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
21. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
22. The decision of the Committee was unanimous.

### **Right of Appeal**

**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**

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           D Preston            
Chairperson

Date           28/5/12



Exterior View



Bathroom Wall



Living room window 1



Living room window 2