

Determination by the Private Rented Housing Committee
Statement of Decision of the Private Rented Housing
Committee under Section 24 (1) of the Housing
(Scotland) Act 2006

**Re: The residential dwellinghouse at
9 The Cottages, Old Scone,
Perth, PH2 6BB.
("the Property").**

The Parties:-

**Mr Allan Bryson
resident at the Property
("the Tenant").**

and

**Mansfield Estates
Estate Office
Scone Palace
Perth
PH2 6BD
("the Landlord").**

The Committee's Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, and taking account of the evidence made available, the Committee unanimously determined that the Landlord had not complied with the duty imposed by Section 14(1)(b).

The Background

- 1. On 3 June 2009 Mr Bryson applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act.**

2. Following receipt of Mr Bryson's application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee in accordance with Section 22(1) of the Act.
3. The Committee served a Notice of Referral on the Landlord and on Mr Bryson in accordance with the terms of Schedule 2, Paragraph 1 of the Act.
4. The Committee inspected the property on 4 September 2009 at 10.00 am. Mr Bryson was present during the inspection. The Landlord was represented at the inspection by Mr Hugh Anderson. A Hearing took place after the inspection at 11.00 am in the Dewars Centre, Glover Street, Perth.

The Application

5. In his application Mr Bryson submitted that the Repairing Standard had not been met for the following reasons:
 - the Property was not wind and not water tight and was not in all other respects fit for human habitation;
 - the structure and exterior of the Property (including the drains, gutters and external pipes) were not in a reasonable state of repair and not in proper working order;
 - the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and water heating were not in a reasonable state of repair and not in proper working order.
6. Mr Bryson submitted that the kitchen and bathroom required extractor fans and it was not possible to open some of the windows. Moreover the front door frame did not fit properly and there was dampness within the Property.

The Inspection

7. The Property was found to be a small two bedroom semi-detached cottage of traditional stone and slate construction. A brick built addition at the rear houses the kitchen. There is oil fired central heating and single glazing.
8. In the course of the inspection Mr Bryson advised the Committee that there were no extractor fans in the bathroom and the kitchen. He drew the attention of the Committee to gaps between the door frame and the walls of the house - the front door was draughty. Mr Bryson also advised the Committee that he could not open some of the windows.
9. The Committee inspected the main bedroom in the Property and noted that there was evidence of dampness in the ceiling (which appeared to be as a consequence of water ingress). It was also noted that there was

evidence of dampness in the window sill and in the wall below the window sill. A Protimeter (Electronic Damp Meter) test revealed areas of significant dampness in the main bedroom ceiling and in the wall under the window.

10. The Committee noted that there was evidence of dampness in the kitchen on the walls on either side of the back door. A Protimeter test revealed areas of significant dampness in this area.
11. The Committee inspected the exterior of the Property and noted some of the external ventilation grills appeared to be blocked. It was also noted that an external down pipe at the front of the Property was leaking and was in a poor state of repair.

The Hearing

12. As indicated, a Hearing was held after the inspection. Mr Bryson attended the Hearing and the Landlord was represented by Mr Hugh Anderson.
13. The Chairman introduced the Committee to the parties and reminded them of the issues which the Committee would consider and determine.
14. Mr Bryson told the Committee of the problems he had experienced in the Property and of his efforts to resolve them. He advised that the Property was affected by dampness. At times, the window sill in the main bedroom was saturated with water. The radiator in the kitchen was not effective in suitably heating the kitchen. He reminded the Committee that there were no extractor fans in the bathroom or in the kitchen. Mr Bryson told the Committee that he and his wife had health problems and he was concerned that the dampness was affecting their health. He acknowledged that on occasions he had used calor gas heaters in the Property and accepted that this could increase levels of condensation. He told the Committee that he had paid for gravel to be laid at the area of ground outside the kitchen door at the rear of the Property.
15. Mr Bryson produced a letter sent to him (and his wife) from Perth and Kinross Council which contained details of a re-assessment of their application (for housing). The Committee ensured that Mr Anderson was afforded an opportunity of perusing this letter.
16. Mr Bryson told the Committee that the Landlord had indicated that alternative accommodation might be available. However he didn't think that this alternative accommodation would be suitable for him. He hoped that remedial works could be carried out on the Property and that he would not need to vacate it.
17. Mr Anderson accepted that it would be appropriate to install extractor fans in the bathroom and in the kitchen. He also accepted that many of the windows required to be "released" and that the gaps in the front door

frame required to be sealed. He advised the Committee that Mr Bryson and the Landlord had previously considered mediation in an effort to resolve matters but this had not been pursued.

18. The parties were in agreement that they would have to work together to find a solution to remedy the dampness affecting the interior.

Summary of the issues

19. The issue to be determined by the Committee was whether the Landlord had complied with the requirements of the Act in ensuring that the Property met the Repairing Standard.

Findings of fact

20. In February 1999 Mr Bryson and the Landlord executed a Short Assured Tenancy Agreement relative to the Property. Since then Mr Bryson and the Landlord have executed further Tenancy Agreements.
21. There are gaps between the front door frame and the wall. As a consequence of these gaps the Property is not wind tight.
22. There are no extractor fans in the kitchen and in the bathroom.
23. It is not possible to open some of the windows in Property.
24. The under floor ventilation grills are blocked and not in proper working order
25. The external down pipe at the front of the Property is leaking. This pipe is not in a reasonable state of repair and not in proper working order.
26. There is significant dampness in the main bedroom and in the kitchen. The dampness is likely to originate from condensation, penetrating damp and rising damp.

Reasons for the decision

27. It was clear to the Committee that there is significant dampness within the Property – in particular in the main bedroom and in the kitchen. The Committee concluded that a variety of factors were contributing to the dampness.
28. The use of calor gas heaters within the Property would cause condensation. Whilst the Committee accepted that there was a lack of storage space in the Property, furniture and stored goods in the Property restricted the movement of air and also contributed to condensation.
29. As indicated the Committee noted that it was not possible to open a number of windows in the Property. Again this is likely to prevent areas

of the Property being properly ventilated and likely to increase the level of condensation in the Property.

30. The installation of extractor fans in the bathroom and in the kitchen would assist to reduce the levels of condensation in the Property.
31. There are gaps in the front door frame and these require to be sealed to ensure that the Property is wind tight.
32. The external down pipe at the front of the Property is not in a reasonable state of repair and not in proper working order and, if not repaired will result in further dampness problems.

Decision

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

Right of Appeal

36. A Landlord or Tenant aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63

37. 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. 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... **R Handley** Date... 18/9/09

Chairperson

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

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Perth, PH2 6BB.
("the Property").**

The Parties:-

**Mr Allan Bryson
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(the Tenant).**

and

**Mansfield Estates
Estate Office
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Perth
PH2 6BD
(the Landlord).**

NOTICE TO THE LANDLORD

In terms of their decision dated 18 September 2009, the Private Rented Housing Committee determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord had failed to ensure that the Property was wind tight, was in a reasonable state of repair and in all respects reasonably fit for human habitation.

The Private Rented Housing Committee now requires the Landlord to carry out such works as are 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:-

- (a) ensure that all windows in the Property can be opened and are in proper working order;

- (b) install extractor fans in the kitchen and the bathroom or install some other means of expelling excess moisture from the interior;
- (c) repair the front door frame to ensure that it is wind tight;
- (d) repair the external down pipe at the front of the Property to ensure that it is in proper working order and in a reasonable state of repair;
- (e) carry out such works as are necessary to remedy the significant dampness affecting the interior of the Property.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of two months from the date of service of this Notice.

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.

In witness whereof these presents type written on this and the preceding page(s) are executed by Ron Handley, Solicitor, Chairperson of the Private Rented Housing Committee at Edinburgh on 18 September 2009 before this witness:-

K Robertson _____ Witness **R Handley** _____ Chairman

KIRSTY ROBERTSON Name in full

CITY CHAMBERS, HIGH STREET, Address

EDINBURGH

SENIOR LEGAL SUPPORT OFFICER Occupation