

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

prhp Ref: KY11/47/09

**Re: Property at 4 Louise Street, Dunfermline, Fife KY11 4AU
("the Property")**

The Parties:-

Mary George, 4 Louise Street, Dunfermline, Fife ("the Tenant")

Anna Kennedy-Stewart, 29a Mill Street, Alloa, FK10 1DT ("the Landlord")

Decision

The Committee, having made such enquiry as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14(1)(b) in relation to the property concerned, and having inspected the property and taking account of the evidence led by the Tenant at the Hearing 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 3rd of June 2009 the Tenant applied to the Rented Housing Panel for determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the aforesaid Act.**
- 2. The application by the Tenant stated the Landlord had failed to comply with her duty to ensure that the house meets the repairing standard and in particular the Tenant advised:-**

- (a) the windows let in wind and water
- (b) there is dampness in the walls
- (c) the central heating switch is faulty and the system requires to be operated manually

3. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
4. Following service of Notice of Referral neither party made further written representations to the Committee.
5. The Private Rented Housing Committee inspected the property on the morning of the 23rd of September 2009. The Tenant was present throughout the inspection and was supported by her son, Mr. Ian George. Although the Landlord had been invited to attend she was not present at the inspection.
6. Following the inspection of the property the Private Rented Housing Committee held a Hearing at the Abbey View Community Centre and heard further oral evidence from the Tenant and her son. The Landlord did not attend and was not represented.
7. The Tenant submitted that the windows are steel framed and although they do not let in water they are very draughty. Mrs. George complained of dampness in the walls in the bathroom, the kitchen and the hall cupboard. This dampness had been reported to the Landlord in May 2009. Work was undertaken in the bathroom of the upstairs flat to seal a shower unit and assurances were given to the Tenant that the dampness problem would now be resolved. Mrs. George advises the problem has not resolved and that the walls are still damp to the extent that she cannot use her hall cupboard. The tenant conceded the repair work to the upstairs flat had stopped the water running down her walls however the dampness remains a very significant

problem impeding use of the hall and kitchen cupboards and presenting a health hazard to the storing and preparation of food in the kitchen. Mrs. George also told us the central heating switch was faulty as a result of which her heating and water did not come on automatically but could only be worked manually.

Findings of Facts and Reasons

8. The Committee visually inspected the property on the morning of the 23rd of September 2009 and was guided by its professional Surveyor Member throughout the inspection. Our Surveyor Member took damp meter readings throughout.

9. The Committee find the following facts to be established:-

(a) The windows are of steel construction. This was a common style of window when the property was built. The windows do not leak. They fit the frames into which they are installed. There is some condensation dampness around the windows sills at the rear of the property. While the Committee take the view that steel framed windows are not a desirable form of construction we are satisfied that the windows are in a reasonable state of repair having regard to the age, character and prospective life of the house and accordingly we find that there is no breach of the repairing standard in respect of Section 13(1)(b).

(b) The Committee saw penetrating dampness in the bathroom, kitchen and hall cupboard. When the damp meter was applied to the ceiling and walls of these areas dampness registered "off the scale" on the damp meter. The dampness extends down to a low level on the walls. The Committee noted the electrical wiring is situated within the hall cupboard which is registering this level of dampness. We are of the opinion such a combination of live electrical wiring and penetrating dampness represents a significant safety risk. Further, the dampness in the kitchen / food preparation and storage

area represents a significant health risk Accordingly we find the Landlord is in breach of the repairing standard as regards Section 13(1)(a).

(c) From our inspection , and after demonstration by the Tenant's son , it was self evident that the central heating programmer and timer are not in a proper state of repair. The central heating has to be operated manually. Accordingly there is a breach of Section 13(1)(c).

We found these facts after making a visual inspection guided by our professional Surveyor Member and hearing representations from the Tenant.

Decision

10. The Committee accordingly determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.
11. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1).
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

13. 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.

A McCamley

Chairman

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: KY11/47/09

**Re : Property at 4 Louise Street, Dunfermline, Fife KY11 4AU
("the Property")**

Title No: FFE46362

The Parties:-

Mary George, 4 Louise Street, Dunfermline, Fife ("the Tenant")

Anna Kennedy-Stewart, 29a Mill Street, Alloa, FK10 1DT ("the Landlord")

**NOTICE TO Anna Kennedy-Stewart, 29a Mill Street, Alloa FK10 1DT
("the Lanlord")**

Whereas in terms of their decision dated First October 2009, 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:-

- (1) That the house is wind and watertight and in all other respects reasonably fit for human habitation contrary to Section 13(1)(a) of the Act.

- (2) That the installations in the house for the supply of water, **gas**, and electricity and for sanitation, space heating and **heating water** are in a reasonable state of repair and in proper working order contrary to Section 13(1)(c) of the Act.

The Private Rented Housing Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by carrying out of any of the works in terms of this Order is made good. In particular and without prejudice to the foregoing generality the Private Rented Housing Committee requires the Landlord:-

- (a) To effect such repairs as are required to eliminate the penetrating and continuing dampness evident in the walls and ceilings of the bathroom, hall cupboard and kitchen.
- (b) To repair or replace the central heating programmer/timer.

The Private Rented Housing Committee order that the work specified in this Order must be carried out and completed within a period of **three 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 typewritten on this and the two preceding pages are executed by me Anne McCamley, Solicitor, Chairman of the Private Rented Housing Committee at Edinburgh on the First day of October Two Thousand and Nine in the presence of Murdoch McCamley, Chartered Accountant, Osborne House, One Osborne Terrace, Edinburgh.

M McCamley

(witness) 

A McCamley

Chairman.