



**PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF REASONS**

PROPERTY:

26 Thistle Drive, Aberdeen, AB12 4QH.

INSPECTION & HEARING

24th June, 2010

STATEMENT OF REASONS

INTRODUCTION

1. This is an application dated 16th March, 2010 ('the application') made under section 22(1) of the Housing (Scotland) Act 2006 ('the Act') by Mr and Mrs Toms Taurins ('the tenants') regarding the property known as and forming 26 Thistle Drive, Portlethen, Aberdeenshire, AB12 4QH ('the property'). The landlords of the property are Mr Abdul Hamid and Miss Tahmida Kalam ('the landlords') who reside at 8 Ramsay Road, Stonehaven, Aberdeenshire, AB39 2HT.
2. In the application the tenants contend that the landlord has failed to comply with the duty imposed on them by section 14(1)(b) of the Act as the property fails to meet the repairing standard as set out in section 13(1) of the Act.
3. The tenant ceased occupation of the property and their tenancy expired prior to the hearing. In terms of section 7(1) of schedule 3 of the Act the tenancy is considered to have been withdrawn. Notwithstanding this, the Committee can continue to determine the application in terms of section 3(b)(i) of the Act. The Committee proceeded to make such a determination.
4. The Committee comprised

Chairman	Mr Steven Walker
Surveyor	Mr Angus Anderson
Housing Member	Mr Mike Scott

The Committee was assisted by the Clerk to Committee, Mr Robert Shea.

THE DOCUMENTATION

5. The Committee considered all the documents referred to it by the parties including the application from the tenant. There were no written representations from the landlord.

THE INSPECTION

6. The Committee could not inspect the property as no access was given by the landlords notwithstanding that they had prior intimation of the inspection.

DESCRIPTION OF THE PROPERTY

7. The property is a terraced house comprising of ground and first floor. The property is in the middle of a small village and close to local amenities.

THE HEARING

8. The hearing took place at the Thistle Hotel, Altens, Aberdeen on 24th June, 2010. Neither the tenants nor the landlords appeared at the hearing. The tenants' complaint is that the landlord had failed to meet the repairing standard as detailed in section 4 of the application. In summary, the tenants consider there has been a failure by the landlord to meet the repairing standard on the following matters;-

- (a) Boiler. The Boiler is non-functioning.
- (b) The window in the children's bedroom is letting in wind and water and the handle is stiff.
- (c) Dishwasher. The dishwasher is non-functioning.
- (d) Mixer Tap in kitchen is leaking.
- (e) Smoke alarms are unsatisfactory.

9. The Committee proceeded to make its determination on the basis that the complaint against the landlords was (1) undefended and (2) that the Committee was entitled to draw an adverse inference by the landlords failure to allow access to the property and to dispute the case against them.

THE ACT

10. Section 14(1)(b) of the Act provides;-

“14 Landlord's duty to repair and maintain

(1) The landlord in a tenancy must ensure that the house meets the repairing standard—

- (a) at the start of the tenancy, and
(b) at all times during the tenancy.”*

11. Section 13 of the Act provides;

“13 The repairing standard

(1) A house meets the repairing standard if—

- (a) the house is wind and water tight 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) 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,*
- (d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order,*
- (e) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed, and*

(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.”

FINDINGS OF FACT & REASONS

12. The complaint before the Committee as per the tenants' application and our determinations in relation to this are as follows;-

(a) Boiler. The Boiler is non-functioning.

The Committee is presented with an undefended complaint and a failure by the landlords to allow the Committee to inspect the property and attend the hearing. Accordingly, this Committee draws and adverse inference against the landlords and determines that the boiler is not in a reasonable state of repair and in proper working order.

(b) The window in the children's bedroom is letting in wind and water and the handle is stiff.

The Committee is presented with an undefended complaint and a failure by the landlords to allow the Committee to inspect the property and attend the hearing. Accordingly, this Committee draws and adverse inference against the landlords and determines that the window in the children's bedroom is letting in wind and water and that the house is not wind and water tight and in all other respects reasonably fit for human habitation. Furthermore, The Committee determines that the window handle is stiff and not in a reasonable state of repair and in proper working order.

(c) Dishwasher. The dishwasher is non-functioning.

The Committee is presented with an undefended complaint and a failure by the landlords to allow the Committee to inspect the property and attend the hearing. Accordingly, this Committee draws and

adverse inference against the landlords and determines that the dishwasher is not in a reasonable state of repair and in proper working order.

(d) Mixer Tap in kitchen is leaking.

The Committee is presented with an undefended complaint and a failure by the landlords to allow the Committee to inspect the property and attend the hearing. Accordingly, this Committee draws and adverse inference against the landlords and determines that the mixer tap is not in a reasonable state of repair and in proper working order.

(e) Smoke alarms are unsatisfactory.

The Committee is presented with an undefended complaint and a failure by the landlords to allow the Committee to inspect the property and attend the hearing. Accordingly, this Committee draws and adverse inference against the landlords and determines that the house has no satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

SUMMARY OF DECISION

13. The Committee accordingly determines that the landlords have failed to comply with the duty imposed by section 14(1)(b) of the Act in respect of the complaints.
14. The Committee accordingly makes a Repairing Standard Enforcement Order as required by section 24(1).

RIGHT OF APPEAL

15. 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

16. 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.

S Walker

Signed ..

Steven P Walker
Advocate & Barrister

Chairman
Private Rented Housing Committee

2nd July, 2010



REPAIRING STANDARD ENFORCEMENT ORDER

BY THE

PRIVATE RENTED HOUSING COMMITTEE

PRHP Ref: AB12/58/10

PROPERTY

**26 Thistle Drive, Aberdeen, AB12 4QH.
TITLE NUMBER KNC1519**

PARTIES

MR TOMS AND MRS ZANE TAURINS, formerly residing at 26 Thistle Drive,
Portlethen, Aberdeenshire, AB12 4QH

Tenants

and

MR ABDUL HAMID AND MISS TAHMIDA KALAM, residing at 8 Ramsay Road,
Stonehaven, Aberdeenshire, AB39 2HT.

Landlords

**REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO') AGAINST MR ABDUL
HAMID AND MISS TAHMIDA KALAM**, residing at 8 Ramsay Road, Stonehaven,
Aberdeenshire, AB39 2HT, landlords of the subjects known as and forming 26 Thistle
Drive, Aberdeen, AB12 4QH, TITLE NUMBER KNC1519.

1. **WHEREAS** in terms of their decision dated 2nd July, 2010 the Private Rented Housing Committee ('the Committee') determined that the landlords have 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 landlords to 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 are 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 landlords to carry out the following repairs ('the Works');-
 - (a) The boiler requires repair to ensure that the boiler is in a reasonable state of repair and in proper working order.
 - (b) The window in the children's bedroom requires repair to ensure that the house is wind and water tight and in all other respects reasonably fit for human habitation. Furthermore, the window handle in the children's bedroom requires repair to ensure it is in a reasonable state of repair and in proper working order.
 - (c) The dishwasher requires repair to ensure it is in a reasonable state of repair and in proper working order.
 - (d) The mixer tap requires repair to ensure that it is in a reasonable state of repair and in proper working order.

- (e) Two mains wired and interlinked smoke alarms require to be installed or repaired as appropriate in the ground and first floor halls in order that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

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 WEEKS** from the date of service of this Order.

RIGHT OF APPEAL

4. 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

5. 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 by me, Steven Peter Walker, Advocate & Barrister, Chairman of the Private Rented Housing Committee, at London on the second day of July two thousand and ten before this witness, Hee Kiat Sii, c/o 2-5 Warwick Court, London, WC1R 5DJ.

S Walker

Chairman

H K Sii

Witness