

## **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 /DD5/7/10**

**Re: Property at 8 Kingennie Road, Wellbank, by Broughty Ferry DD5 3PG  
("the Property")**

#### **The Parties:-**

**David Rankine, Let it Right Limited, Unit 10, Castlecroft Business Centre,  
Tom Johnston Road, Dundee DD4 8XD ("the Landlord")**

**Sandra Watt, 8 Kingennie Road, Wellbank, by Broughty Ferry DD5 3PG  
("the Tenant")**

#### **Decision**

**The Committee, having made such enquiry as it sees 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 taking account of the evidence led by the Landlord at the Hearing and after an inspection of the property determines that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.**

#### **Background**

- 1. By application dated 6th January 2010 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord 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 Tenant stated the Tenant considered the Landlord had failed to comply with the duty to ensure the house meets the repairing standard and the Tenant brought forward the following alleged breaches:-
  - (a) Faulty downlighters in the hall and kitchen
  - (b) Dampness in kitchen, bedroom and living room windows
  - (c) Extractor fan in kitchen not working
  - (d) Dampness in bathroom and kitchen
  - (e) Convector heaters in bedroom not working
  - (f) Worn out shower screen
  - (g) Attic hatch unsafe
  - (h) Water ingress into hall and landing cupboards
  - (i) Water ingress into front and rear bedrooms
  - (j) Faulty cooker hob
  - (k) Sliding doors in bedrooms off runners and not working properly
3. The Private Rented Housing Committee served Notice of Referral dated the 19th January 2010 under and in terms of Schedule 2, Paragraph 1 of the Act on both the Landlord and the Tenant.
4. The Private Rented Housing Committee inspected the property on the morning of the 17th March 2010. Only the Landlord was in attendance. The Tenant has flitted from the property. The property is empty. The Landlord allowed access and the inspection took place. The Landlord was supported by Mr. Drummond.
5. Following the inspection of the property the Private Rented Housing Committee held a Hearing at the Apex Hotel in Dundee and heard from the Landlord. Although the Tenant had been invited to both the inspection and the Hearing she did not attend either.

6. Mr. Drummond spoke on behalf of Mr. Rankine. He explained the Landlord was anxious to undertake any necessary work and that indeed a great deal of work had already been carried out prior to the inspection. The Local Authority has inspected the property and found that it meets the tolerable standard. The Landlord had produced a considerable volume of written evidence which the Committee was able to peruse.

### **Findings of Fact**

7. Having inspected the property, taken account of the oral and written evidence and thereafter being guided by the Committee's professional Surveyor Member the Committee finds the following facts to be established:-
  - (a) During the course of our inspection we found that the downlighters in the hall and kitchen had been repaired and are currently in proper working order.
  - (b) The extractor fan in the kitchen has been replaced and is in proper working order.
  - (c) The convector heaters in the bedroom are working properly.
  - (d) The shower screen has been repaired and is in proper working order.
  - (e) The attic hatch has been snibbed.
  - (f) There is no evidence of current water ingress into the front or rear bedroom, the bathroom or kitchen. There is some evidence of historic dampness most probably caused by condensation which has left a small patch of black mould above the windows in the rear bedroom and most of the window frames, however there is no penetrating damp in any of the rooms. The two cupboards complained of do not show any evidence of current dampness although there is a musty smell in the hall cupboard which suggests something damp may have been stored therein.
  - (g) There is evidence of misting / condensation between the inner and outer

panes of the double glazed skins of the windows in the kitchen, bedroom and living room. This may be as a result of faulty seals in the windows, however it is not significant in terms of the Repairing Standard and we are satisfied the windows are in a reasonable state of repair and that the property is watertight.

- (h) The cooker hob is faulty. One ring is either hot or cold and it is not possible to vary the temperature. This is a potential hazard to tenants.
  - ( i) The sliding wardrobe doors in the bedroom are off the runners and are not functional or working properly. Given the weight of the doors and the glass mirror finish it is a potential hazard to tenants.
8. We found the property to be generally satisfactory . Any water ingress and dampness is historic in nature, the condensation between the windowpanes and around the window sills can be combated by opening the trickle vent at the top of the windows and ensuring the windows themselves are properly cleaned. The Landlord has carried out the minor repairs required by the Tenant as promptly and effectively as possible. He advised us today he would be in a position to replace the cooker hob immediately and was willing to send the appropriate tradesman to remedy the faulty wardrobe doors as soon as practicable. Nonetheless as at the date of inspection the cooker hob and wardrobe doors did not meet the Repairing Standard and we conclude the tenant is entitled to succeed in her application in respect of those matters only.

### **Decision**

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

11. The decision of the Committee is unanimous.

**Right of Appeal**

12. A Landlord or Tenant aggrieved by the decision of the Private Rented Housing Committee may apply 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 date on which the appeal is abandoned or so determined.

Signed **A McCamley**  
Chairman 

Date 17<sup>th</sup> March 2010

## **Repairing Standard Enforcement Order**

**Ordered by the Private Rented Housing Committee**

**prhp /DD5/7/10**

**Re: Property at 8 Kingennie Road, Wellbank, by Broughty Ferry DD5 3PG  
("the Property")**

**Title No: ANG 16707**

### **The Parties:-**

**David Rankine, Let it Right Limited, Unit 10, Castlecroft Business Centre,  
Tom Johnston Road, Dundee DD4 8XD ("the Landlord")**

**Sandra Watt, 8 Kingennie Road, Wellbank, by Broughty Ferry DD5 3PG  
("the Tenant")**

**NOTICE TO David Rankine, Let it Right Limited, Unit 10, Castlecroft  
Business Centre, Tom Johnston Road, Dundee DD4 8XD  
("the Landlord")**

Whereas in terms of their decision dated 17th March 2010, 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 that the landlord has failed to ensure:-

- (1) Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order - Section 13(1)(d) of the said Act

the Private Rented Housing Committee now requires the landlord to carry out such works as are necessary for the purpose of ensuring the house meets the repairing standard and that any damage caused by the carrying out of any works in terms of this order is made good.

In particular the Private Rented Housing Committee requires the Landlord:-

- To carry out such works as are necessary to replace or repair the cooker hob.
- To carry out such works as are necessary to ensure the sliding wardrobe doors are replaced on their runners and made safe.

The Private Rented Housing Committee order that the work specified in this Order be carried out and completed within a period of **four weeks** 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 preceding page are subscribed by Anne McCamley Chairman of the Committee at Edinburgh on the Twenty Second day of March Two Thousand and Ten in the presence of Murdoch McCamley, Chartered Accountant, Osborne House, Osborne Terrace Edinburgh.

**M McCamley**

(Witness) U

**A McCamley**

Chairman PRHP