



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: EKM/KW8/83/12

Re : Property at 2 Craikaig Cottage, Loth, Helmsdale, KW8 6HP ("the Property")

Sasine Description: those subjects forming and known as 2 Craikaig Cottage being part and portion of the Lands of Craikaig and others, Loth, Helmsdale and being the subjects described in Disposition in favour of William Dudgeon and another recorded in the Division of the General Register of Sasines for the County of Angus on 24 May 1922

The Parties:-

Mr & Mrs Ruddy residing at 2 Craikaig Cottage, Loth, Helmsdale, KW8 6HP (represented by their agent Ms Alison MacRury, Ross & Cromarty Citizens Advice Bureau) ("the Tenants")

Mr Michael Dudgeon, residing at Craikaig Farm, Loth, Helmsdale, Sutherland, KW8 6HP (the Landlord")

NOTICE TO MICHAEL CLIVE GEARY DUDGEON ("the Landlord")

Whereas in terms of their decision dated 29 June 2012, 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 that:-

- (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) The structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.

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 the carrying out of any work in terms of this Order is made good.

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

- (a) to carry out such works of repair or replacement as are necessary to ensure the front door is wind and water tight and complies with the repairing standard.
- (b) to carry out such works of repair or replacement as are required to ensure that the windows at the Property are properly wind and water tight, capable of opening and closing properly, lockable and otherwise are in such condition as is required to meet the repairing standard.
- (c) to install a suitable extraction fan within the bathroom of the Property, suitably ducted, to reduce the incidence of condensation within the Property.
- (d) to re-point those areas of the rear external wall where there are open joints in the masonry.
- (e) to repair/replace the plasterboard around the rear bedroom window of the Property and to make good any damage occasioned thereby.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 4 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 pages are executed by Ewan Kenneth Miller, Chairman and legal member, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, chairperson of the Private Rented Housing Committee at Dundee on 29 June 2012 before this witness:-

S Clack

_____ witness

E Miller

_____ chairman

SHEILA CLACK

WHITEHALL HOUSE
33 YEAMAN SHORE
DUNDEE
DD1 4BJ

SECRETARY



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

prhp Ref: EKM/KW8/83/12

Re : Property at 2 Crakaig Cottage, Loth, Helmsdale, KW8 6HP ("the Property")

The Parties:-

Mr & Mrs Ruddy residing at 2 Crakaig Cottage, Loth, Helmsdale, KW8 6HP (represented by their agent Ms Alison MacRury, Ross & Cromarty Citizens Advice Bureau) ("the Tenants")

Mr Michael Dudgeon, residing at Crakaig Farm, Loth, Helmsdale, Sutherland, KW8 6HP ("the Landlord")

Decision

The Committee, having made such enquiries 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 house concerned, and taking account of the evidence led by both the Landlord and the Tenants at a hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 24 April 2012 the Tenants 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 Tenants stated that the Tenants considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
 - (b) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order;
3. By letter dated 30 April 2012 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. 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 Tenants.
5. Following service of the Notice of Referral the Tenants made no further written representations to the Committee other than their original application. The Landlord by letter dated 28 April 2012, made written representations to the Committee.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member, Mr R Buchan, Surveyor Member and Mr M Scott, Housing Member, accompanied by the Clerk, Mr G Thomson) inspected the Property on the morning of 26

June 2012. The Tenants and their representative were present. The Landlord was present during the inspection.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at the Belgrave Arms Hotel, Helmsdale, Sutherland and heard from both the Tenants and their representative and the Landlord.
8. The Tenants submitted that, in their view, the Property did not comply with the repairing standard. During the course of the inspection the Tenants had highlighted issues with the front door, the general condition of the windows and mould growth in the rear bedroom.
9. The Landlord submitted that he accepted that the door required to be repaired. He had instructed this to be done, although the work had not yet been carried out. In relation to the windows, his view had been that they were wind and water tight, although he accepted they were not capable of being opened and closed properly. The Landlord did not consider that there was any damp within the Property.

Summary of the issues

10. The issues to be determined were:-
 - (a) Whether the front door at the Property was wind and water tight, in proper working order and otherwise met the repairing standard.
 - (b) Whether the windows at the Property met the repairing standard or whether they required works of repair or replacement.
 - (c) Whether works were required to eliminate damp in the rear bedroom.
 - (d) Whether any works were required to alleviate damp and condensation within the Property.

Findings of fact

11. The Committee found the following facts to be established:-
 - (a) The front door at the Property did not meet the repairing standard.
 - (b) The windows at the Property did not meet the repairing standard.
 - (c) There was no damp within the rear bedroom. The mould growth present was due to condensation.
 - (d) There was no ventilation within the bathroom at the Property (there being no extractor fan and the window being painted shut). This would be contributing to the condensation forming within the rear bedroom as the bathroom was directly below the rear bedroom.
 - (e) Pointing works required to the rear wall of the Property to avoid damp penetration occurring.

Reasons for the decision

12. The Committee based its decision primarily on the evidence obtained during the course of its inspection.

The Committee first inspected the door at the Property. Part of the surrounding frame was coming loose. There was also a rubber strip at the bottom of the door missing that

would assist in preventing water penetration. A couple of the front panels in the door were also loose. The Landlord accepted during the course of the inspection that some works were required to the door. The Committee was satisfied that the Landlord would require to repair or replace the door sufficient to render it properly wind and water tight.

The Committee then inspected all the windows at the Property. Other than with the exception of the rear bedroom window which was a more recent addition, the other windows within the Property were in poor condition. There was rot in the gaps beneath the sills, putty requiring to be replaced and various other defects. The majority of the windows were painted shut and were therefore not capable of opening and closing properly, as they ought to be able to do. The Committee, whilst being prepared to give the option to the Landlord to repair or replace the windows, were of the view that the windows were approaching the end of their natural life and that replacement would be a better option in the longer term for the Landlord.

The Committee inspected the rear bedroom where the Tenants slept. There was mould growth around the window. The window was a relatively modern unit and appeared to be in proper working order. Upon testing the areas where mould was present, it was apparent that there was no damp and that the mould was being caused by condensation. The Committee noted that the bathroom was directly beneath the rear bedroom. The Committee had noted during its inspection that there was no extractor fan in the bathroom and the window was not capable of being opened. The Committee were of the view that an extractor fan in the bathroom was required to alleviate condensation build-up in the Property but that it would have to be vented clear of the rear windows to avoid any extracted air simply re-entering the property via the window of the bedroom above. The rear bedroom of the Property was one of the smaller bedrooms. The main bedroom to the front of the Property had furniture of the Landlord stored in it. There was a discussion about this furniture during the Hearing. Whilst there was an historic dispute regarding this, it was agreed during the course of the Hearing that the Landlord would remove this furniture. This would allow the Tenants to move to the front bedroom which had a better aspect. The larger space in the front bedroom, combined with being at the front of the Property, should assist in alleviating condensation building up. In relation to the mould within the rear bedroom, the Landlord had previously obtained a quote for repair works to be carried out around this area and it would be appropriate for these works to go ahead.

The Committee had noted during the course of the inspection that pointing was required to seal open joints in the masonry on the rear wall of the Property. This would help avoid damp penetration and minimise condensation within the Property. The Landlord accepted that this required to be done. The Landlord indicated that he would also add an extractor fan to the kitchen to further assist in reducing condensation within the Property.

The Committee highlighted the requirement on the Tenant to ensure the Property was properly aired to help minimise condensation.

Decision

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

Right of Appeal

16. 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.

17. **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 **E Miller**
Chairperson

..... Date *29/6/12*