



REPAIRING STANDARD ENFORCEMENT ORDER

BY THE

PRIVATE RENTED HOUSING COMMITTEE

PRHP Ref; KY5/87/11

PROPERTY

All and whole the subjects known as and forming 8/10 Ballingry Road, Lochore being the subjects more particularly described in the disposition to John Reid recorded in the General Register of Sasines for the County of Fife on the fifteenth day of June nineteen hundred and eighty seven.

PARTIES

MR ALAN DUNCAN, residing at 8/10 Ballingry Road, Lochore, KY5 8EX.

Tenant

and

MR RONALD CLOUGH, residing at 3 Stephen Place, Lochgelly, KY5 9DP.

Landlord

REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO') AGAINST MR RONALD CLOUGH, residing at 3 Stephen Place, Lochgelly, KY5 9DP.

1. **WHEREAS** in terms of their decision dated 13th July, 2011 the Private Rented Housing Committee ('the Committee') determined that the landlord has 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 landlord 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 is also made good (ie; redecoration) before the expiry of the Completion Date.

THE ORDER

3. In particular, and without prejudice to the foregoing generality, the Committee **HEREBY ORDERS** the landlord to carry out the following repairs ('the Works');-
 - 3.1 The mice infestation requires eradication to ensure that the property is in all other respects reasonably fit for human habitation.
 - 3.2 The central heating requires repair to ensure it is in a reasonable state of repair and in proper working order.
 - 3.3 The dampness in all the rooms requires eradication to ensure that the property is water tight and in all other respects reasonably fit for human habitation.
 - 3.4 The electrics in the property require repair to ensure that the electricity installations in the property are in a reasonable state of repair and in proper working order.
 - 3.5 The warped doors internal to the property require repair/replacement to ensure that they are in a reasonable state of repair and in proper working order.

- 3.6 The installations in the house for the supply of hot water require repair to ensure they are in a reasonable state of repair and in proper working order.
- 3.7 The installations in the house for the supply of cold water require repair to ensure they are in a reasonable state of repair and in proper working order.
- 3.8 The kitchen external door and lock requires repair/replacement to ensure it is in a reasonable state of repair and in proper working order.
- 3.9 The front door lock requires repair to ensure it is in a reasonable state of repair and in proper working order.
- 3.10 The broken kitchen floor tiles require repair to ensure they are in a reasonable state of repair and in proper working order.
- 3.11 Smoke alarms require to be installed to ensure that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
- 3.12 The room vents require repair to ensure they are in a reasonable state of repair and in proper working order.
- 3.13 The external front rough casting requires repair to ensure that it is in a reasonable state of repair and in proper working order.
- 3.14 The cracked roof tiles to rear require repair/replacement to ensure that the house is wind and water tight and in all other respects reasonably fit for human habitation.

4. 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 **SIXTEEN WEEKS** from the date of service of this Order.
5. **TAKE NOTICE** IT IS A CRIMINAL OFFENCE IF A LANDLORD FAILS TO FULLY COMPLY WITH THIS RESO IN TERMS OF SECTION 28(1) OF THE HOUSING (SCOTLAND) ACT 2006.
6. **TAKE NOTICE** IT IS A CRIMINAL OFFENCE FOR A LANDLORD TO RE-LET A PROPERTY THAT IS SUBJECT TO RSEO WHICH HAS NOT BEEN FULLY COMPLIED WITH IN TERMS OF SECTION 28(5) OF THE HOUSING (SCOTLAND) ACT 2006.

RIGHT OF APPEAL

7. 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

8. 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 Glasgow on the thirteenth day of July two

thousand and eleven before this witness, Anita Crozier, solicitor, c/o 126 West Regent Street, Glasgow.

 S Walker

Chairman

A Crozier


Witness



PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF REASONS

PROPERTY:

8/10 Ballingry Road, Lochore, KY5 8EX

INSPECTION & HEARING

5th July, 2011

STATEMENT OF REASONS

INTRODUCTION

1. This is an application dated 20th April, 2011 ('the application') made under section 22(1) of the Housing (Scotland) Act 2006 ('the Act') by Mr Alan Duncan ('the tenant') regarding the property known as and forming 8/10 Ballingry Road, Lochore, KY5 8EX ('the property'). The landlord of the property is Mr Ronald Clough, residing at 3 Stephen Place, Lochgelly, KY5 9DP ('the landlord').
2. In the application the tenant contends that the landlord has failed to comply with the duty imposed on him 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 Committee comprised

Chairman	Mr Steven Walker
Surveyor	Ms Carol Jones
Housing Member	Mr John Wolstencroft

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

THE DOCUMENTATION

4. The Committee considered all the documents referred to it by the parties.

THE INSPECTION

5. The Committee inspected the property. Only the tenant was present at the inspection.

DESCRIPTION OF THE PROPERTY

6. The property is a detached bungalow (comprising of two semi-detached properties which were integrated to form a single dwelling at some point) likely to have been originally constructed pre 1950's and comprising of 4 bedrooms, 2 bathrooms, kitchen, living room and extensive gardens to front, sides and rear. The property is located in the village of Ballingry, near Kinross. The property was in an extremely poor internal condition with extensive damp, fungal growth and mould as well as no central heating and no hot water (in the entire property) or cold water (in the bathroom).

THE HEARING

7. The hearing took place at the Benarty Community Centre, Ballingry on 5th July, 2011. Both parties attended the hearing. The tenant was assisted by a friend. The tenant's complaint is that the landlord had failed to meet the repairing standard as detailed in the application. In summary, the tenant considers there has been a failure by the landlord to meet the repairing standard on the following matters;-

1. Mice Infestation;
2. Central heating does not work;
3. Dampness in all the rooms;
4. Electrical problems;
5. Warped doors;
6. No hot water;
7. No cold water in the bathroom;

- 8. Kitchen external door is rotting and lock does not work;
- 9. Front door lock does not work;
- 10. Broken kitchen tiles;
- 11. No Smoke alarms;
- 12. Room vents are blocked;
- 13. Cracked window to front bedroom;
- 14. External front rough casting missing;
- 15. Raised drain at front;
- 16. Cracked roof tiles to rear.

- 8. The Chairman opened the hearing and advised both parties that they would each have an opportunity to address the Committee in relation to the complaints. In summary, the parties repeated their complaints. However, the landlord stated that he had no difficulty performing any of the remedial works suggested by the tenant and that he intended to do so once the tenant had ceased occupation of the property.

THE ACT

- 9. 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.”

- 10. 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

11. The complaints before the Committee as per the tenant's application and our determinations in relation to this are as follows;-

1. Mice Infestation;

12. At the inspection there was evidence of mice infestation with two dead mice being observed. Accordingly, the Committee determines that the property is not in all other respects reasonably fit for human habitation.

2. Central heating does not work;

13. At the inspection, the central heating was not working. This was a matter of admission at the hearing. Accordingly, the Committee determines that the central heating is not in a reasonable state of repair and in proper working order.

3. Dampness in all the rooms;

14. At the inspection there was evidence of very serious damp, condensation and mould problems in all rooms. Additionally extensive

fungal growth was observed on the walls, floors and ceilings of several rooms along with general conditions conducive to a progressive deterioration of the internal fabric of the property and in particular timber decay/rot. Accordingly, the Committee determines that the property is not water tight and in all other respects reasonably fit for human habitation.

4. Electrical problems;

15. At the inspection, there were extensive electrical problems, with sockets, light switches not working and exposed lighting wires. Accordingly, the Committee determines that the electricity installations in the property are not in a reasonable state of repair and in proper working order.

5. Warped doors;

16. At the inspection, all of the internal doors were warped and most did not have handles. Accordingly, the Committee determines that the doors in the property are not in a reasonable state of repair and in proper working order.

6. No hot water;

17. At the inspection, there was no hot water. This is a consequence of the central heating not working. Accordingly, the Committee determines that the installations in the house for the supply of hot water in the property are not in a reasonable state of repair and in proper working order.

7. No cold water in the bathroom;

18. At the inspection, there was no cold water in the bathroom. This is a consequence of the central heating not working. Accordingly, the Committee determines that the installations in the house for the supply of cold water in the property are not in a reasonable state of repair and in proper working order.

8. Kitchen external door is rotting and lock does not work;

19. At the inspection, the kitchen external door is rotting and the lock does not work. Accordingly, the Committee determines that the kitchen external door and lock is not in a reasonable state of repair and in proper working order.

9. Front door lock does not work;

20. At the inspection, the front door lock was observed to be difficult to operate effectively. Accordingly, the Committee determines that the front door lock is not in a reasonable state of repair and in proper working order.

10. Broken kitchen tiles;

21. At the inspection, there were broken kitchen floor tiles. Accordingly, the Committee determines that the broken kitchen tiles are not in a reasonable state of repair and in proper working order.

11. No Smoke alarms;

22. At the inspection, there were no smoke alarms. Accordingly, the Committee determines that the house does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

12. Vents are blocked;

23. At the inspection, some of the room vents were blocked and some external vents were at or very near to ground level. These factors would be likely to contribute to water ingress and dampness in the property. Accordingly, the Committee determines that the room vents are not in a reasonable state of repair and in proper working order.

13. Cracked window to front bedroom;

24. At the inspection, there was a cracked window to the front bedroom however, the tenant advised that this was present at the

commencement of the lease. Accordingly, the Committee makes no determination in this regard.

14. External front rough casting missing;

25. At the inspection, there was external front rough casting missing. Accordingly, the Committee determines that the external front rough casting was not in a reasonable state of repair and in proper working order.

15. Raised drain at front;

26. At the inspection, there was a raised drain at the front of the property. The tenant's complaint related to the fact that the drain was raised. The tenant advised that the drain was fully functional. Accordingly, the Committee makes no determination in this regard.

16. Cracked roof tiles to rear;

27. At the inspection, there were cracked roof tiles to the rear of the property. Accordingly, the Committee determines that the house is not wind and water tight and in all other respects reasonably fit for human habitation.

SUMMARY OF DECISION

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

RIGHT OF APPEAL

29. 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

30. 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

13th July, 2011