

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

ref: PRHP/EH15/111/10

**Re: Property at 1/2 10 Marlborough Street, Portobello, Edinburgh
("the Property")**

Sasine Description: ALL and WHOLE the northmost flatted dwellinghouse on the first floor of the block of dwellinghouses known as and forming number 10 Marlborough Street, Portobello, Edinburgh being the subjects more particularly described in the Disposition by Lorimer Hunter Stewart in favour of Jill Amanda McGregor dated First and recorded in the General Register of Sasines for the County of Midlothian on the Second, both days of July Nineteen Hundred and Ninety-seven.

The Parties:-

Jill Amanda McGregor per James Gibb, Property Management, 4 Atholl Place, Edinburgh EH3 8HT ("the Landlord")

Alfred Gordon, 10 Marlborough Street, Portobello ("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 whole written evidence and the observations made during the inspection 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 16th August 2010 the Tenant applied to the Private Rented Housing Panel for a determination as to 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 Landlord had failed to comply with the duty to ensure the house meets the repairing standard and brought forward the following alleged breaches:-
 - (a) all window frames are rotting and allow wind penetration
 - (b) there is cracked brickwork in the utility room ceiling and wall
3. The Private Rented Housing Committee served Notice of Referral dated 23rd August 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 12th October 2010. The Committee comprised Anne McCamley, Chairman, Ian Mowatt, Surveyor and Liz Nicholson, Housing Member. The Tenant was in attendance. The Landlord had been invited to attend but was not present.
5. Following the inspection of the property the Private Rented Housing Committee held a Hearing at Leith Community Centre. Neither the Landlord nor the Tenant attended the Hearing. In the absence of any oral evidence the Committee considered the application on the basis of the papers and their own inspection of the flat. Throughout the inspection the Committee was guided by Mt Mowatt (Surveyor Member).
 - . In his written evidence the Tenant complained of ill fitting rotting window frames which do not prevent wind penetration. Mr. Gordon also complained of cracked brickwork in the utility room wall and cracked plaster in the utility room ceiling. The Landlord has not responded to the application either in writing or by attending the hearing.

Findings of Fact

6. Having inspected the property and taken account of the written evidence and thereafter being guided by the Committee's professional Surveyor Member the Committee finds the following facts to be established:-

(a) The windows are of sash and case construction. The windows no longer fit the frames and accordingly do not close properly and allow draught penetration. The wooden surrounds are rotting. We found this to be the case in all the windows in the flat.

(b) The rear projection forming the utility room has pulled away from the main structure causing a noticeable gap between the main rear wall and the side wall projection. We also noted cracks in the plasterwork in the utility room.

Accordingly we find the Landlord is in breach of the Repairing Standard Section 13(1)(b) insofar as we are not satisfied that the structure and exterior of the house are in a reasonable state of repair as regards the windows and the cracked brickwork in the utility area.

We take a different view as regards the cracking in the plasterwork in the utility room ceiling. Having consulted with our professional Surveyor Member we are satisfied this is a cosmetic matter which does not fall within our remit.

Decision

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

Right of Appeal

10. 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

11. 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

Signed

Chairman

J

Date

12/10/10

Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

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The Parties:-

Jill Amanda McGregor per James Gibb, Property Management, 4 Atholl Place, Edinburgh EH3 8HT ("the Landlord")

Alfred Gordon, 10 Marlborough Street, Portobello ("the Tenant")

NOTICE TO Jill Amanda McGregor per James Gibb, Property Management, 4 Atholl Place, Edinburgh EH3 8HT ("the Landlord")

Whereas in terms of their decision dated 12th October 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) The structure and exterior of the house are in a reasonable state of repair and in proper working order - Section 13(1)(b) of the said Act.

The Private Rented Housing Committee now requires the Landlord to carry out such works as are necessary for the purposes 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 repair and refit all the window frames to ensure they are draught proof and in full working order i.e. capable of opening and closing.
- To carry out such works as are necessary to seal the back projection which has pulled away from the main structure and to seal the noticeable gap between the main rear wall and the side wall of said projection.

The Private Rented Housing Committee order that the work specified in this Order must be carried out and completed within a period of **eight 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 one preceding page are executed by Anne McCamley, Solicitor, Chairman of the Private Rented Housing Committee at Edinburgh on the Eighteenth day of October, Two Thousand and Ten before Murdoch McCamley, Chartered Accountant, Osborne House, Osborne Terrace, Edinburgh.

M McCamley

Witness
J

A McCamley

J — chairman