



REPAIRING STANDARD ENFORCEMENT ORDER

BY THE

PRIVATE RENTED HOUSING COMMITTEE

PRHP Ref; EH15/12/13

PROPERTY

All and whole the subjects known as and forming 10/1F Bellfield Lane, Portobello, Edinburgh, EH15 2BL being the subjects more particularly described in the disposition to James Ferguson and William Ferguson recorded in the General Register of Sasines for the County of Edinburgh on the twenty seventh day of March nineteen hundred and eighty.

PARTIES

Ms Audrey Fitzgibbon-Kelly, residing at 10/1F Bellfield Lane, Portobello, Edinburgh, EH15 2BL.

Tenant

and

Mr Robert Donald Ross Brydon, c/o Alba Residential, 21-23 Church Hill Place, Edinburgh, EH10 4BE.

Landlord

REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO') AGAINST Mr Robert Donald Ross Brydon, c/o Alba Residential, 21-23 Church Hill Place, Edinburgh, EH10 4BE.

1. **WHEREAS** in terms of their decision dated 15 April 2013 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 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 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 cracked and warped rhone directly above the kitchen window requires replacement, the vegetation growing out of each end of the rhone requires removal and the cracked slates on the roof require replacement to ensure that the property is wind and water tight, in all other respects reasonably fit for human habitation and in a reasonable state of repair and proper working order.
 - 3.2 The kitchen window including the sill and the surrounding seals require repair/replacement, the interior surrounds of the kitchen window including the area below the kitchen window require to be repaired and the external

wall to the left facing the kitchen window from street level requires repointing to ensure that the property is wind and water tight, in all other respects reasonably fit for human habitation and in a reasonable state of repair and in proper working order.

3.3 The chimney requires repair to ensure that it is stable, wind and water tight and in a reasonable state of repair and proper working order.

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 **TWENTY EIGHT DAYS** from the date of service of this Order.

RIGHT OF APPEAL

5. 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

6. 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, Chairman of the Private Rented

Housing Committee, at Edinburgh on the twenty second day of April two thousand and thirteen before this witness, Hee Kiat Sii, solicitor, c/o 2-5 Warwick Court, London.

S Walker

Chairman

H K Sii

Witness



PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF REASONS

PRHP Ref: EH15/12/13

PROPERTY:

10/1F Bellfield Lane, Portobello, Edinburgh, EH15 2BL

INSPECTION & HEARING

26 March 2013

STATEMENT OF REASONS

INTRODUCTION

1. This is an application dated 21 January 2013 ('the application') made under section 22(1) of the Housing (Scotland) Act 2006 ('the Act') by Ms Audrey Fitzgibbon-Kelly ('the tenant') regarding the property known as and forming 10/1F Bellfield Lane, Portobello, Edinburgh, EH15 2BL ('the property'). The landlord of the property is Mr Robert Donald Ross Brydon, c/o Alba Residential, 21-23 Church Hill Place, Edinburgh, EH10 4BE ('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	Mr Robert Buchan
Housing Member	Mrs Christine Anderson

The Committee was assisted by the Clerk to the Committee.

THE DOCUMENTATION

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

THE INSPECTION

5. The Committee inspected the property. The tenant and a friend, Gill Adamson, were present at the inspection and Mr Callum MacGregor of Alba Residential was present on behalf of the landlord.

DESCRIPTION OF THE PROPERTY

6. The property is a first floor flat of stone and slate construction built c. 1860, with single glazed sash and case windows and comprising of living room, kitchen, bathroom and 2 bedrooms.

THE HEARING

7. The hearing took place at Thistle House, 91 Haymarket Terrace on 26 March 2013. Only the tenant and Ms Adamson attended the hearing. 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. Leak in roof
2. Kitchen wall has mould
3. Chimney in bad repair

THE ACT

8. Section 14 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.”

9. 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

10. Overall the Committee were disappointed in the poor state of the property and the obvious inconvenience and stress that the tenant has had to endure. It is well known that there is an adverse effect on health by living in a damp atmosphere. The tenant claimed that there have been mice in the kitchen and whilst the committee could not see evidence of this, the condition of the property is such that it is quite possible that mice could enter the property. The Committee regrets that it has no powers to make an order for compensation to be paid to the tenant but hope that the need for works to be carried out will act as a

spur to the landlord to improve the property to a standard more befitting 2013.

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

1. Leak in roof

12. At the inspection the Committee observed that there was a cracked and warped rhone directly above the kitchen window, and also vegetation growing out of each end of the rhone. There were also a number of cracked slates. The Committee considers that these defects in all probability result in water penetrating the property. Accordingly, the Committee determines that the property is not water tight and in addition the structure and exterior of the house (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order.

2. Kitchen wall has mould

13. At the inspection the Committee observed on testing with a moisture meter that the kitchen wall surrounding the kitchen window had extensive dampness, in particular, on the wall above the kitchen window and underneath the kitchen window sill. The kitchen window and sill is in a poor state of repair with softness in the wood and missing sealant. The external wall to the left facing the kitchen window from street level has open joints in masonry requiring repointing. The Committee considers that these defects in all probability result in water penetrating the property. Accordingly, the Committee determines that the property is not water tight and in all other respects reasonably fit for human habitation and in addition the structure and exterior of the house are not in a reasonable state of repair. It was also noted that there were various stains in the living room from past damp penetration which have not been properly redecorated.

3. Chimney in bad repair

14. At the inspection the Committee observed that the chimney on the right as viewed from the street was in an extremely poor and dangerous state of repair. The chimney had a large hole which could be easily viewed from street level and the stability of the stack was in question. Accordingly, the Committee determines that the chimney on the property is not in a reasonable state of repair and in proper working order.

SUMMARY OF DECISION

15. 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 the complaints.
16. The Committee accordingly makes a Repairing Standard Enforcement Order as required by section 24(2).

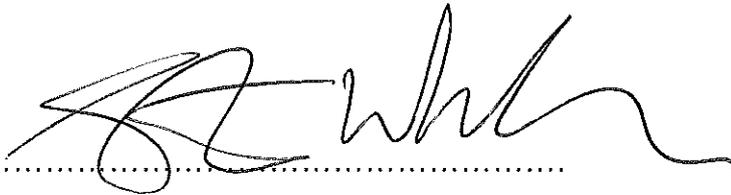
RIGHT OF APPEAL

17. 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

18. 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.

Signed

A handwritten signature in black ink, appearing to read 'S Walker', written over a dotted line.

Steven Walker

Advocate Barrister Attorney

Chairman

Private Rented Housing Committee

22 April 2013