



REPAIRING STANDARD ENFORCEMENT ORDER
Ordered by the Private Rented Housing Committee

RE: All and Whole the flatted dwelling house known as 10/14 Murdoch Terrace, Edinburgh EH11 1AZ being the south, back house on the third flat forming part and portion of the tenement 10 Murdoch Terrace aforesaid all as the said tenement is more particularly described in Disposition by Alexander McIntosh Anderson to George Bee dated 29 April and recorded in the Division of the General Register of Sasines for the County of Edinburgh both months of the year Nineteen Forty Seven (hereinafter referred to as “the House”)

The Parties:

**Pietro Passiatore, residing at 10/14 Murdoch Terrace, Edinburgh EH11 1AZ
(hereinafter referred to as “the Tenant”)**

**Stonelime Investments Limited, 239 Eskhill, Penicuik, Midlothian, Scotland,
EH26 8DF (hereinafter referred to as “the Landlord”)**

PRHP REFERENCE PRHP/RP/16/0190

NOTICE TO STONELIME INVESTMENTS LIMITED

WHEREAS in terms of their decision dated 16 August 2016 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 and in particular that the Landlord has failed to ensure that the House meets the repairing standard in that:

“(a) the house is wind and water tight and in all other respects reasonably fit for human habitation.”

The Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House 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 Committee requires the Landlord:

To repair all damage caused to the House by the ingress of water and to replaster and redecorate in order that the House is free of dampness and and in reasonable decorative order.

The Committee orders that the works specified in this Order must be carried out and completed within 14 weeks from the date of service of this Notice.

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 the decision.

Where such an appeal is made, the effect of the decision and 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 signed by John Miller McHugh, Chairperson of the Private Rented Housing Committee at Edinburgh on the Sixteenth day of August Two Thousand and Sixteen in the presence of the undernoted witness:

John McHugh

Chairperson

Witness **Evelyn Lonie**
EVELYN LONIE

Witness Address

*65 HAYMARKET TENNIS
EDINBURGH
EH12 5HD*



DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE
UNDER SECTION 24(1)
OF THE HOUSING (SCOTLAND) ACT 2006**

In connection with

**Property at 10/14 Murdoch Terrace, Edinburgh EH11 1AZ (hereinafter referred
to as “the House”)**

**Pietro Passiatore, residing at 10/14 Murdoch Terrace, Edinburgh EH11 1AZ
(hereinafter referred to as “the Tenant”)**

**Stonelime Investments Ltd, 239 Eskhill, Penicuik, Midlothian, Scotland, EH26
8DF (hereinafter referred to as “the Landlord”)**

PRHP REFERENCE PRHP/RP/16/0190

DECISION

The Committee having made such enquiries as are fit for the purposes of determining whether the Landlord has complied with the duty imposed by section 14(1)(b) of the Housing Scotland Act 2006 (hereinafter “the Act”) in relation to the House, and taking account of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application received on 11 May 2016 (hereinafter referred to as “the Application”), the Tenant applied to the Private Rented Housing Panel (hereinafter “the PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and, in particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

“(a) the house is wind and water tight and in all other respects reasonably fit for human habitation...”

“(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

“(g) the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.”

The Tenant complained of damage caused by water ingress.

By letter of 10 June 2016, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

The Committee comprised the following members:

John McHugh, Chairperson

Ian Murning, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

The Committee inspected the House on 8 August 2016. The Tenant was present. The Landlord was represented by Rob Trotter and Clare Gregor of the Landlord's agents, DJ Alexander. A contractor employed by the Landlord, Paul Grant, was working within the House.

A hearing took place thereafter at George House, Edinburgh. The Tenant was neither present nor represented, having indicated at the inspection that he did not intend to attend. Mr Trotter and Ms Gregor attended on behalf of the Landlord.

Submissions at the Hearing

The Landlord's representatives acknowledged that the House was in poor condition. Works had already been instructed and the contractor, Paul Grant, had begun these. The works which have been instructed will deal with the consequences of water ingress and will also encompass significant upgrading.

In particular, Mr Grant has been instructed to replaster the areas affected by water ingress; to redecorate the whole House; to install mains powered smoke alarms and heat detectors; to upgrade the electrics; to install a new fitted kitchen including appliances; to install a new bathroom; and to replace all floor coverings.

It is thought that unknown third parties had been present on the roof and had left litter which had blocked the V gulley causing water build up which in turn caused the water ingress. The litter had been cleared and the problem had not recurred. The Landlord's agents had taken steps to discourage access to the roof including padlocking the access hatch in the common stair.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

Findings in Fact

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

There is no written Tenancy Agreement.

A tenancy exists between the Landlord and Tenant.

Stoneline Investments Limited is the registered owner of the House.

The Tenant took possession of the House from February 1996 and remains in occupation.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defect in the House which is now the subject of the Application by letter of 7 May 2016 addressed to the Landlord's agent.

The inspection on 8 August 2016 revealed:

The House is a top floor flat in a block consisting of a ground floor with three storeys above.

There has been water ingress damage to the room at the far end of the hall, in the hall and in the cupboard off of the hall.

Works to address the damage have commenced.

No dampness is present in the affected area.

No fire or carbon monoxide detection devices are installed.

A schedule of photographs taken at the inspection is appended to this Determination.

Reasons for the Decision

Water Damage

There is no dispute that the House requires extensive works to address the damage caused by water ingress. The Landlord has already commenced works to remove water damaged elements of the House and to replaster and redecorate as necessary.

Repairing Standard Enforcement Order

Having decided to make a Repairing Standard Enforcement Order, the Committee considered the length of time which should be provided for compliance. The Committee elected to impose a period of 14 weeks having regard to the fact that works have commenced and will form part of a substantial programme of upgrading which is likely to take place while the Tenant remains in occupation.

Observations

The Tenant has ticked the boxes in his Application form relating to fire and carbon monoxide detection although he has not included this within his notification to the Landlord so we may not make an Order at this stage. No fire or carbon monoxide detection devices are in operation although Mr Grant intended to rely upon a battery operated smoke alarm during the period of the carrying out of the works until permanent arrangements were installed. Mr Grant advises that his works will include making appropriate provision for these matters. The Landlord is advised to have regard to the terms of the Scottish Government Guidance on Satisfactory Provision for Detecting and Warning of Fires.

The common stair is in poor condition and it would appear that the building has no factor. Given the history of water ingress and the risk of a repeat of same, the Landlord would be well advised to consider along with fellow proprietors in the block the appointment of a factor to ensure the future maintenance of common areas including the roof.

Decision

The Committee, considering the terms of section 13(3) of the Act, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(2) of the Act.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

John McHugh

John M McHugh
Chairperson

Date: 16 August 2016

10/14 Murdoch Terrace Edinburgh EH11 1AZ

Photos from inspection

PRHP/RP/16/0190

8th August 2016

Surveyor Ian H Murning TD

8/08/2016

1

Front Elevation 1



21/06/2016

2

Front Elevation 2



21/06/2016

3

Entrance Door – Door Entry System



21/06/2016

4

Landing Outside Front Door of Flat



21/06/2016

5

View from Landing Outside Door to Flat



21/06/2016

6

View Towards Loft/Roof Access Hatch



21/06/2016

7

Living Room - Work in Progress



21/06/2016

8

Work in Progress



21/06/2016

9

Ceiling – Work in Progress



21/06/2016

10

Wall & Ceiling – Work in Progress



21/06/2016

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