



REPAIRING STANDARD ENFORCEMENT ORDER

BY THE

PRIVATE RENTED HOUSING COMMITTEE

PRHP Ref: prhp/AB21/179/10

PROPERTY

Lower Floor Flat, 422 Auchmill Road, Bucksburn, Aberdeen, AB21 9NN TITLE
NUMBER ABN26312

PARTIES

MRS AGNIESZKA MARCINKOWSKA, residing at Lower Floor Flat, 422 Auchmill
Road, Bucksburn, Aberdeen, AB21 9NN.

Tenant

and

MR OMA EJUMOTAN, c/o Trinity Concepts Ltd, 3 Auchmill Terrace, Aberdeen, AB21
9LF

Landlord

**REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO') AGAINST, MR OMA
EJUMOTAN, c/o Trinity Concepts Ltd, 3 Auchmill Terrace, Aberdeen, AB21 9LF**

heritable proprietor of all and whole the subjects known as and forming Lower Floor Flat, 422 Auchmill Road, Bucksburn, Aberdeen, AB21 9NN TITLE NUMBER ABN26312.

1. **WHEREAS** in terms of their decision dated 21st April, 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 are also made good 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');-
 1. The entrance hall and spare bedroom of the property are suffering from damp\water penetration and mould which is being caused by the problems identified by the Committee in their decision dated 21st April, 2011 and which requires repair to ensure that the property is 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 **SIX WEEKS** 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, Advocate & Barrister, Chairman of the Private Rented Housing Committee, at London on the twenty first day of April two thousand and eleven 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**

PROPERTY:

**Lower Floor Flat, 422 Auchmill Road, Bucksburn, Aberdeen, AB21 9NN
TITLE NUMBER ABN26312**

INSPECTION & HEARING

31st March, 2011

STATEMENT OF REASONS

INTRODUCTION

1. This is an application dated 30th November, 2010 ('the application') made under section 22(1) of the Housing (Scotland) Act 2006 ('the Act') by Mrs Agnieszka Marcinkowska ('the tenant') regarding the property known as and forming Lower Floor Flat, 422 Auchmill Road, Bucksburn, Aberdeen, AB21 9NN TITLE NUMBER ABN26312 ('the property'). The tenant was represented by her daughter Miss Justina Marcinkowska ('the agent'). The agent was assisted by a Polish interpreter. The landlord of the property is Mr Oma Ejumotan, c/o Trinity Concepts Ltd, 3 Auchmill Terrace, Aberdeen, AB21 9LF ('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 Angus Anderson
Housing Member	Mrs Linda Robertson

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. The tenant's daughter and her interpreter were present. The landlord failed to attend.

DESCRIPTION OF THE PROPERTY

6. The property is a lower floor flat of a Victorian semi-detached house constructed c. 1900, principally of stone construction beneath a pitched and slated roof, comprising of entrance hall, hall, master bedroom, spare bedroom in rear extension, bathroom, kitchen and living room. There was evidence of damp/water penetration and mould in the entrance hall and spare bedroom. There was evidence of mould in the master bedroom and living room. Outside the property, the front and rear guttering appeared to be in a poor state of repair. On the front of the property, the cement flashing appeared to be cracked and in a poor state of repair and is the likely cause of the damp in the entrance hall. The extension at the rear of the property has a slated roof in a poor state of repair which is likely to be contributing to the water penetration in the spare room. The property is located on the edge of town and relatively close to local amenities.

THE HEARING

7. The hearing took place at the Henry Rae Community Centre, Bucksburn, Aberdeen on 31st March, 2011. Only the agent and her interpreter attended the hearing. The tenant's complaint is that the landlord had failed to meet the repairing standard as detailed in the application. The tenant considers there has been a failure by the landlord to meet the repairing standard which her agent summarised at the inspection and hearing as follows;-

- (a) There is damp\mould in the entrance hall;
- (b) There is damp\mould in the spare room;

- (c) The back door requires replacement;
- (d) The kitchen window requires replacement;
- (e) The master bedroom has damp and mould;
- (f) The living room has damp and mould.

8. The Chairman opened the hearing and invited the agent to address the Committee.
9. In summary, the agent repeated her primary complaints contained within the application together with the additional matters she raised at the inspection. The Chairman advised the agent that the Committee could only consider matters which were part of the original application. The agent said she understood. The Chairman then concluded the hearing.

THE ACT

10. 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.”

11. 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

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

(a) There is damp\mould in the entrance hall;

13. At the inspection there was evidence of damp\water penetration and mould in the entrance hall. The plaster has softened and is discoloured, giving high damp meter readings. Externally, the front gutter appears to have been leaking and the downpipe is split. There is cracked masonry to the wallhead and at the cement flashing between masonry and the slates. Accordingly, the Committee determines that the entrance hall is not water tight and in all other respects reasonably fit for human habitation.

(b) There is damp\mould in the spare room;

14. At the inspection there was evidence of damp\water penetration and mould in the spare room on the external walls and also on the internal wall and ceiling. Externally, there is vegetation growing in the gutters and a missing stop end to the gutter. There are numerous missing and broken slates to the roof over the rear extension. Accordingly, the

Committee determines that the spare room is not water tight and in all other respects reasonably fit for human habitation.

(c) The back door requires replacement;

15. This matter was not part of the original application and so this Committee has no jurisdiction to consider this matter. Accordingly, we make no determination in relation to this.

(d) The kitchen window requires replacement;

16. This matter was not part of the original application and so this Committee has no jurisdiction to consider this matter. Accordingly, we make no determination in relation to this.

(e) The master bedroom has damp and mould;

17. At the inspection there was no evidence of current damp\water penetration. There was evidence of some minor mould although no moisture readings were present on the damp meter. The likely cause of this mould is due to condensation as a consequence of the tenant's failure to adequately ventilate the property. Accordingly, the Committee determines that the master bedroom is water tight and in all other respects reasonably fit for human habitation.

(f) The living room has damp and mould.

18. At the inspection there was no evidence of current damp\water penetration. There was evidence of some minor mould although no moisture readings on the damp meter. The likely cause is due to condensation as a consequence of the tenant's failure to adequately ventilate the property. Accordingly, the Committee determines that the living room is water tight and in all other respects reasonably fit for human habitation.

SUMMARY OF DECISION

19. 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.
20. The Committee accordingly makes a Repairing Standard Enforcement Order as required by section 24(1).

RIGHT OF APPEAL

21. 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

22. 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  S Walker

Steven P Walker
Advocate & Barrister

Chairman
Private Rented Housing Committee

21st April, 2011