



REPAIRING STANDARD ENFORCEMENT ORDER

BY THE

PRIVATE RENTED HOUSING COMMITTEE

PRHP Ref: EH7/224/11

PROPERTY

34/4 Beaverbank Place, Edinburgh, EH7 4ET TITLE NO MID13938

PARTIES

MISS JANINA WYRODA, residing at 34/4 Beaverbank Place, Edinburgh, EH7 4ET.

Tenant

and

MR PAUL MCCABE, residing at 8 The Oval, Willerby, HV10 6PB.

Landlord

REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO') AGAINST, MR PAUL MCCABE, residing at 8 The Oval, Willerby, HV10 6PB.

1. **WHEREAS** in terms of their decision dated 23 May 2012 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. There is evidence of water penetration to the living room ceiling and wall which requires to be remedied to ensure that the living room is in a reasonable state of repair and in proper working order.
 2. The gas boiler requires inspection and a gas safety certificate from a suitably qualified Gas Safe engineer to ensure the gas boiler is in a reasonable state of repair and in proper working order.
 3. The electrical system including the lighting requires inspection and an electrical safety certificate from a suitably qualified NICEIC engineer to ensure the electrical system is in a reasonable state of repair and in 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 **FOUR 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 third day of May two thousand and twelve before this witness, Hee Kiat Sii, solicitor, c/o 2-5 Warwick Court, London.

S Walker H K Sii

Chairman

Witness



**PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF REASONS**

PROPERTY:

34/4Beaverbank Place, Edinburgh, EH7 4ET

STATEMENT OF REASONS

INTRODUCTION

1. This is an application ('the application') dated 19 December 2011 made under section 22(1) of the Housing (Scotland) Act 2006 ('the Act') by Miss Janina Wyroda ('the tenant') regarding the property known as and forming 34/4 Beaverbank Place, Edinburgh, EH7 4ET ('the property'). The landlord of the property Mr Paul McCabe ('the landlord') who resides at 8 The Oval, Willerby, HV10 6PB.

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 Ian Mowatt
Housing Member	Mrs Christine Anderson

THE DOCUMENTATION

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

THE INSPECTION

5. The Committee inspected the property on 3 May 2012. Only the tenant and some friends were present at the inspection.

DESCRIPTION OF THE PROPERTY

6. The property is a ground floor flat in a tenement constructed c. 1885, principally of stone construction beneath a pitched and slated roof, comprising of one bedroom, bathroom, kitchen/living room. The property is located in Edinburgh and close to local amenities.

THE HEARING

7. The hearing took place on 3 May 2012. The tenant and her friends attended the hearing. The tenant's complaint is that the landlord had failed to meet the repairing standard as detailed in the application. The application incorporates 6 complaints. The tenant considers there has been a failure by the landlord to meet the repairing standard which are summarised as follows;-

1. Flood damage to living room ceiling and wall;
2. Gas boiler defective;
3. Electrical system defective;
4. Leaking Radiator in hall;
5. Bedroom floorboards rotten;
6. Bedroom door has moisture bulge.

The tenant largely repeated these complaints at the hearing.

THE ACT

8. 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."

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

1. Flood damage to living room ceiling and wall;

11. At the inspection there was evidence of water penetration to the living room ceiling and wall. Accordingly, the Committee determines that the living room is not in a reasonable state of repair and in proper working order.

2. Gas boiler defective;

12. At the inspection there was intermittent hot water supplied from the gas boiler and no gas safety certificate according to the tenant. Accordingly, the Committee determines that the gas boiler is not in a reasonable state of repair and in proper working order.

3. Electrical system defective;

13. At the inspection there was obvious water damage to the living room ceiling including around the lights which could possibly have damaged some of the electrics in the property. Accordingly, the Committee determines that the electrical system is not in a reasonable state of repair and in proper working order.

4. Leaking Radiator in hall;

14. At the inspection the leaking radiator had already been fixed by the tenant. Accordingly, the Committee makes no determination in this regard.

5. Bedroom floorboards rotten;

15. At the inspection there was no evidence that the bedroom floorboards were rotten. Accordingly, the Committee makes no determination in this regard.

6. Bedroom door has moisture bulge.

16. At the inspection there was no evidence of any moisture in the bedroom door. Accordingly, the Committee makes no determination in this regard.

SUMMARY OF DECISION

- 14. 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.
- 15. The Committee accordingly makes a Repairing Standard Enforcement Order as required by section 24(1).

RIGHT OF APPEAL

- 16. 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

- 17. 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

23 May 2012