



**PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF REASONS**

PROPERTY:

47D Barrasgate Road, Fraserburgh, AB43 9DQ

INSPECTION & HEARING

24th February, 2011

STATEMENT OF REASONS

INTRODUCTION

1. This is an application dated 10th November, 2010 ('the application') made under section 22(1) of the Housing (Scotland) Act 2006 ('the Act') by Mrs Renata Wrega-Pospiech ('the tenant') regarding the property known as and forming 47D Barrasgate Road, Fraserburgh, AB43 9DQ ('the property') TITLE NUMBER ABN31261. The tenant is currently residing in temporary accommodation at 28 Clinton Place, Sandhaven, AB43 7FS. The landlord of the property is Mr Peter Cowie, residing at 20 Broomhill, Fraserburgh, AB43 9TU. ('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 Mark Andrew
Housing Member	Mr Mike Scott

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 and landlord were present. The tenant had ceased occupation of the property some five months prior to the inspection. The lease was still in existence and had not terminated.

DESCRIPTION OF THE PROPERTY

6. The property is a top second floor Victorian flat constructed c. 1900, principally of stone construction beneath a pitched and slated roof, comprising of 2 bedrooms, bathroom, kitchen and livingroom. All rooms showed evidence of damp\water penetration originating from the roof and gables. The common staircase walls also showed evidence of damp\water penetration. Outside the property, the front guttering appeared to be in a poor state of repair. Adjacent to the back garden of the property there was evidence that an exposed sewage pipe had been overflowing sewage into the back garden of the property. The property is located in town and close to local amenities.

THE HEARING

7. The hearing took place at the Fraserburgh Leisure Centre on 24th February, 2011. Both parties 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 she summarised at the inspection as follows;-

- (a) There is no secure door entry system on the main front door;
- (b) There is damp\water penetration in all of the rooms of the property due to a leaking roof;
- (c) There is damp\water penetration in the communal staircase walls;

(d) The external front gutters are leaking;

(e) A sewage pipe is overflowing onto the back garden of the property.

8. The Chairman opened the hearing and advised both parties that they would each have an opportunity to address the Committee in relation to the complaints. The Chairman then invited the tenant to address the Committee.
9. In summary, the tenant repeated her primary complaints contained within her application in relation to the damp, gutters and sewage. The Chairman advised the tenant that her complaint in relation to the door entry system was not part of the original application and so could not be considered by this Committee. The tenant said she understood. She further advised the Committee that her preference was to secure council house accommodation although this was proving difficult to secure. She advised that she had been living in emergency accommodation for the last five months and whilst she didn't want to return to the property, there was a real likelihood she would have to once the remedial works were completed.
10. The Chairman then asked the landlord to respond. In response, the landlord agreed that the door entry system was a new complaint and not part of the current application. The landlord said that he agreed that the property was damp and that there was water penetration in every room coming from the roof and gables. He had this inspected by a roofing contractor who had ascertained the cause of the water penetration. He was hopeful of agreement from the other owners in the property to share the cost of these communal repairs, but advised he could not advise the Committee of any timetable for these remedial works. He also agreed that there was damp/water penetration in the communal staircase also coming from the roof. He further agreed that the external front gutter was leaking and in need of repair. He also acknowledged that the sewage pipe was leaking onto the communal

back garden. However, the sewage pipe was on neighbouring property and he said he had no control over this. He advised that he had been in contact with the local authority to complain about this problem.

11. The Chairman then asked both parties if they wished to address the Committee further in any respect. Both parties said they did not and then the Chairman concluded the hearing.

THE ACT

12. 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."*

13. 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

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

(a) There is no secure door entry system on the main front door

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.

(b) There is damp\water penetration in all of the rooms of the property due to a leaking roof

16. At the inspection there was evidence of damp\water penetration in all rooms of the property. This is a matter of admission by the landlord. Accordingly, the Committee determines that the roof and rooms are not water tight and in all other respects reasonably fit for human habitation.

(c) There is damp\water penetration in the communal staircase walls

17. At the inspection there was evidence of damp\water penetration in the communal staircase walls of the property. This is a matter of admission by the landlord. Accordingly, the Committee determines that the staircase walls are not water tight and in all other respects reasonably fit for human habitation.

(d) The external front gutters are leaking

18. At the inspection there was evidence that the external front gutters were leaking. This is a matter of admission by the landlord. Accordingly, the Committee determines that the external front gutters are not in a reasonable state of repair and in proper working order.

(e) A sewage pipe is overflowing onto the back garden of the property

19. At the inspection there was evidence of sewage leaking from a neighbouring property and spilling onto the communal back garden of the property. This is a matter of admission by the landlord. Accordingly, the Committee determines that the communal back garden is not in all other respects reasonably fit for human habitation.

SUMMARY OF DECISION

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

RIGHT OF APPEAL

22. 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

23. 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

1st March, 2011



REPAIRING STANDARD ENFORCEMENT ORDER

BY THE

PRIVATE RENTED HOUSING COMMITTEE

PRHP Ref: prhp/AB43/162/10

PROPERTY

47D Barrasgate Road, Fraserburgh, AB43 9DQ TITLE NUMBER ABN31261

PARTIES

MRS RENATA WREGA-POSPIECH, residing at 47D Barrasgate Road, Fraserburgh, AB43 9DQ.

Tenant

and

MR PETER COWIE, residing at 20 Broomhill, Fraserburgh, AB43 9TU.

Landlord

REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO') AGAINST, MR PETER COWIE, residing at 20 Broomhill, Fraserburgh, AB43 9TU heritable proprietor of all and whole the subjects known as and forming 47D Barrasgate Road, Fraserburgh, AB43 9DQ TITLE NUMBER ABN31261.

1. **WHEREAS** in terms of their decision dated 1st March, 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. All of the rooms of the property and the roof are suffering from damp and water penetration and the roof and rooms require repair to ensure that they are water tight and in all other respects reasonably fit for human habitation.
 2. The communal staircase walls are suffering from damp and water penetration and require repair to ensure that the communal staircase walls are water tight and in all other respects reasonably fit for human habitation.
 3. The external front gutters are leaking and require repair to ensure that the gutters are in a reasonable state of repair and in proper working order.
 4. The communal back garden is suffering from sewage spillage which requires to be prevented to ensure that the back garden is 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 **EIGHT 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 first day of March two thousand and eleven before this witness, Hee Kiat Sii, solicitor, c/o 2-5 Warwick Court, London.

Chairman **S Walker**

Witness **H K Sii**