



**REPAIRING STANDARD ENFORCEMENT ORDER**

**BY THE**

**PRIVATE RENTED HOUSING COMMITTEE**

PRHP Ref: prhpFK7/186/10

**PROPERTY**

**2 Douglas Terrace, Kings Park, Stirling, FK7 9LL TITLE NUMBER STG27357**

**PARTIES**

**MR KENTON SMITH**, residing at the property known as and forming 2 Douglas Terrace, Kings Park, Stirling, FK7 9LL.

**Tenant**

and

**MRS PAULINE MORRISON**, residing at Denbrae, Whins of Milton, Stirling, FK7 8ER.

**Landlord**

**REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO') AGAINST, MRS PAULINE MORRISON**, residing at Denbrae, Whins of Milton, Stirling, FK7 8ER heritable proprietor of all and whole the subjects known as and forming 2 Douglas Terrace, Kings Park, Stirling, FK7 9LL TITLE NUMBER STG27357.

1. **WHEREAS** in terms of their decision dated 16<sup>th</sup> 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');-
  - 3.1 The windows in the property, with the exception of the front bedroom, require repair to ensure the windows are fully operable and in a reasonable state of repair and in proper working order.
  - 3.2 The bathroom walls and ceiling are mouldy and require repair to ensure that the bathroom walls and ceiling are water tight and in all other respects reasonably fit for human habitation.
  - 3.3 The electric bathroom wall heater requires replacement to ensure the electric bathroom wall heater is in a reasonable state of repair and in proper working order.
  - 3.4 The kitchen ceiling wallpaper is peeling requires repair to ensure that the kitchen ceiling 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 **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 sixteenth day of March two thousand and eleven before this witness, Andrew Farrugia, solicitor, c/o 2-5 Warwick Court, London.

**S Walker**

Chairman

**A Farrugia**

Witness



**PRIVATE RENTED HOUSING COMMITTEE  
STATEMENT OF REASONS**

**PROPERTY:**

**2 Douglas Terrace, Kings Park, Stirling, FK7 9LL.**

**INSPECTION & HEARING**

**7<sup>th</sup> March, 2011**

## **STATEMENT OF REASONS**

### **INTRODUCTION**

1. This is an application dated 8<sup>th</sup> December, 2010 ('the application') made under section 22(1) of the Housing (Scotland) Act 2006 ('the Act') by Mr Kenton Smith ('the tenant') regarding the property known as and forming 2 Douglas Terrace, Kings Park, Stirling, FK7 9LL ('the property') TITLE NUMBER STG27357. The landlord of the property is Mrs Pauline Morrison, residing at Denbrae, Whins of Milton, Stirling, FK7 8ER. ('the landlord').
2. In the application the tenant contends that the landlord has failed to comply with the duty imposed on her 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	Mr Scott Campbell

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 Clerk introduced the Committee to the parties. The Committee inspected the property. The tenant was present along with his father and the landlord was present along with her father and husband.

### **DESCRIPTION OF THE PROPERTY**

6. The property is a first floor Victorian flat constructed c. 1890 principally of stone construction beneath a pitched and slated roof, comprising of 2 bedrooms, bathroom, kitchen and living room. There was evidence of apparent damp in the living room, bathroom and kitchen ceilings. There was evidence of current damp in the bathroom and kitchen. All of the windows were original wooden sash and case windows with varying degrees of functionality. With the exception of the front bedroom, none of the upper windows could open. In the living room, the left and right windows of the bay window did not open. The remainder of the lower parts of the windows in the property opened but were obviously not attached to the various internal cords. The property has gas central heating and is located in town and close to local amenities.

### **THE HEARING**

7. The hearing took place at the Stirling Enterprise Park on 7<sup>th</sup> March, 2011. Both parties attended the hearing together with their respective relatives. The tenant's mother also 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. The tenant summarised the current issues at the inspection as follows;-

**(a) The windows in the property are inoperable**

**(b) The floor boards in the living room have raised screws, nail heads and splinters**

- (c) The living room ceiling has peeling wallpaper
- (d) The bathroom walls and ceiling are mouldy
- (e) Electric bathroom wall heater no longer works
- (f) Radiators are inefficient due to incorrect bore of pipes and silting
- (g) The gas boiler pilot light keeps going out
- (h) Ceiling wall paper in the kitchen is peeling
- (i) The isolation switch in the kitchen keeps tripping the fuse
- (j) The threshold between the kitchen and hall has raised screws
- (k) The attic insulation is insufficient
- (l) Water leaking from the roof

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 assisted by his parents repeated his primary complaints contained within his application as summarised at the inspection.
10. The Chairman then asked the landlord to respond. In response, the landlord, assisted by her husband and father, said that sufficient windows opened in every room and that this was satisfactory. The floorboards are original exposed wooden floorboards which are in adequate condition for a property of this age. The ceiling in the living room was water stained from a previous leak which had since been fixed and was not damp. Similarly, the damp in the bathroom is water staining from the same fixed leak. The mould in the bathroom is a consequence of the tenant's failure to open the bathroom window and ventilate the space properly. The electric bathroom wall heater has never worked. The central heating system was inspected on 26<sup>th</sup> October, 2010 and was passed by the gas engineer. He did not mention that there was any problem with the radiators and the pass

certificate should be conclusive. The gas boiler pilot light problem is not something the landlord was aware of and if there is a problem the landlord is happy to fix this however this issue is not part of this application. The peeling paper in the kitchen is a consequence of the tenant's failure to open the kitchen window and ventilate the kitchen. The isolation switch which trips has been inspected by an electrician who could not identify a problem. Notwithstanding this, a new washing machine was provided by the landlord. The threshold did not have raised screws. The attic insulation was adequate and there was no leaking from the roof which was inspected on an annual basis.

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) The windows in the property are inoperable**

At the inspection there was evidence that the windows in the property, with the exception of the front bedroom, were not fully operable. This is a matter of admission by the landlord. Accordingly, the Committee determines that the windows in the property, with the exception of the front bedroom, are not in a reasonable state of repair and in proper working order.

**(b) The floor boards in the living room have raised screws, nail heads and splinters**

At the inspection there was no evidence that the floor boards in the living room have raised screws, nail heads and splinters beyond what would normally be expected from exposed floor boards in a property of this age and character. Accordingly, the Committee determines that the floor boards in the property are in a reasonable state of repair and in proper working order.

**(c) The living room ceiling has peeling wallpaper**

At the inspection there was no evidence that the living room ceiling had peeling wallpaper. There was however visible water staining. From a visual inspection, the Committee was of the opinion that water staining was historic and there was no current water penetration or damp. Accordingly, the Committee determines that the living room ceiling is water tight and in all other respects reasonably fit for human habitation.

**(d) The bathroom walls and ceiling are mouldy**

At the inspection there was evidence that the bathroom walls and ceiling were mouldy. From a visual inspection, the Committee was of the opinion that the mould was a current issue most probably due to inadequate ventilation. Accordingly, the Committee determines that the bathroom walls and ceiling are not water tight and in all other respects reasonably fit for human habitation.

**(e) Electric bathroom wall heater no longer works**

At the inspection there was evidence that the electric bathroom wall heater was removed. It is a matter of admission by the landlord that this heater has never worked. Accordingly, the Committee determines that the electric bathroom wall heater is not in a reasonable state of repair and in proper working order.

**(f) Radiators are inefficient due to incorrect bore of pipes and silting**

At the inspection there was no evidence that the radiators are inefficient due to the incorrect bore of pipes and silting. At the hearing, the tenant was unable to support this proposition with any documentary evidence from a heating engineer. The Committee is unable to agree with the tenant's proposition in relation to this issue due to the lack of the evidence before this Committee. Accordingly, the Committee determines that the radiators in the property are in a reasonable state of repair and in proper working order.

**(g) The gas boiler pilot light keeps going out**

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.

**(h) Ceiling wall paper in the kitchen is peeling**

At the inspection there was evidence that the ceiling wall paper in the kitchen is peeling. From a visual inspection, the Committee was of the opinion that the damp was current and most likely due to lack of adequate ventilation in the kitchen. Accordingly, the Committee determines that the ceiling in the kitchen is not water tight and in all other respects reasonably fit for human habitation.

**(i) The isolation switch in the kitchen keeps tripping the fuse**

At the inspection there was no evidence that the isolation switch in the kitchen keeps tripping the fuse. At the hearing, the tenant was unable to support this proposition with any documentary evidence from an electrician. The Committee is unable to agree with the tenant's proposition due to the lack of evidence before this Committee. Accordingly, the Committee determines that the isolation switch in the kitchen is in a reasonable state of repair and in proper working order.

**(j) The threshold between the kitchen and hall has raised screws**

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.

**(k) The attic insulation is insufficient**

At the inspection there was no evidence that the attic insulation was insufficient for a property of this age and character. Accordingly, the Committee determines that the attic insulation in the property is in a reasonable state of repair and in proper working order.

**(I) Water leaking from the roof**

At the inspection there was no evidence of current water leaking from the roof. Accordingly, the Committee determines that the roof is water tight and in all other respects reasonably fit for human habitation.

**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 certain complaints.
16. The Committee accordingly makes a Repairing Standard Enforcement Order as required by section 24(1).

**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.

# S Walker

Signed .

**Steven P Walker**  
**Advocate & Barrister**

**Chairman**  
**Private Rented Housing Committee**

**16<sup>th</sup> March, 2011**