



**Private Rented Housing Committee**

**Statement of decision of the Private Rented Housing Committee under  
Section 24 (1) of the Housing  
(Scotland) Act 2006**

**Re: 17 Spylaw Street Edinburgh EH13 0JS ("the Property")**

**Title Number: MID120340**

**The Parties:-**

**CHRISTIAN COOIJMANS, residing at 17 Spylaw Street Edinburgh EH13 0JS  
("the Tenant")**

**ROY DURIE residing at 12 Pentland Avenue Edinburgh EH13 0HZ ("the  
Landlord")**

**Committee members: Pino Di Emidio (Chairman), Ian Mowatt (Surveyor Member)  
and Christine Anderson (Housing Member)**

*Summary of Decision*

The committee, having made enquiries 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 ("the Act") in relation to the Property, and taking account of the evidence led by the Landlord at the hearing, determined that the Landlord has not failed to comply with the duty imposed by Section 14(1)(b) of the Act in respect that the Property does meet the Repairing Standard in respect of section 13(1)(a) and 13(1)(d) of the Act for the reasons set out below. The application is rejected.

*Background*

1. By application dated 19 January 2014 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act in respect of the Property.
2. In his application the Tenant stated that the Landlord had failed to comply with the duty to ensure that the house meets the repairing standard in certain respects. In particular that he alleged that the Landlord had failed to ensure that the house is wind and water tight and in all other respects reasonably fit for human habitation and that any fixtures, fittings and appliances provided by the landlord under the tenancy were in a reasonable state of repair and in proper working order.

3. The President of the Private Rented Housing Panel decided to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. On 28 January 2014 the Private Rented Housing Committee, comprising Pino Di Emidio, Chairman and Legal Member, Ian Mowatt, Surveyor Member and Christine Anderson, Housing Member ("the Committee"), served notice of referral under and in terms of Schedule 2 paragraph 1 of the Act on both the Landlord and the Tenant intimating that the application had been referred to it for determination. On 8 April 2014 the Landlord and Tenant were notified that the Committee would inspect the Property and thereafter hold a hearing on 28 April 2014.
5. The Committee were informed by the Landlord's letting agent that the tenancy had been terminated and that the Tenant had removed from the Property. The Tenant confirmed by email that the tenancy had been terminated. On 27 April 2014 the Committee decided that the application should nevertheless be determined in the public interest and a Minute of Continuation was granted to this effect.

*Inspection*

6. The Committee inspected the Property on 28 April 2014 at 10 am. Mr Richard Mill a PRHP Chairman and Legal Member was also present at the inspection and the hearing for training purposes. The Landlord was represented by his letting agent Mr. Neil Chatham of Messrs. Murray & Currie.

*Hearing*

7. Following the inspection of the Property, the Committee convened a hearing at Thistle House, 94 Haymarket Terrace, Edinburgh, later the same morning. The Landlord's representative, Mr. Chatham, was in attendance, gave evidence and addressed the hearing.

*Summary of the issues*

8. The issues to be determined by the Committee are whether or not the Property meets the repairing standard in terms of section 13(1)(a) and 13(1)(d) of the Act as at the date of the hearing. In particular (a) whether the house is wind and water tight and in all other respects reasonably fit for human habitation; (b) whether the fixtures, fittings and appliances provided by the Landlord under the tenancy were in a reasonable state of repair and in proper working order;

*Findings in Fact*

9. The committee makes the following findings in fact.
  - 9.1. The title to the subjects known as 17 Spylaw Street, Edinburgh, EH13 0JS is held by the Landlord. His interest was registered in the Land Register of Scotland under title number MID120340 on 28 May 2010.
  - 9.2. The Property which is the subject of this application is situated at the corner of Spylaw Street and Cuddies Lane. It is situated on two floors, the ground and upper floors. It is entered from a door in Cuddies Lane. It comprises a living room and a kitchen on the ground floor and a bathroom and a bedroom on the upper floor. There is a stairway leading from the entrance hallway to the upper floor.

- 9.3. On 30 October 2013 the Tenant and Laura Keizer entered into a Short Assured Tenancy Agreement ("the Agreement") to let the Property from the Landlord. A copy of the Agreement was produced along with the application. A valid tenancy was created in terms of the said Agreement. The Tenant had been in occupation under an earlier agreement prior to the commencement of the current Agreement. The rent was stated to be £575 per month in the Agreement.
- 9.4. The Tenant had first occupied the property in about April 2013.
- 9.5. On 4 November 2013 the Landlord obtained an estimate from Wise Property Care, Dalkeith Branch, for certain remediation works to be carried out to the Property. A copy was produced to the committee. The estimate was for a total of £802.02 including VAT. The detail of the recommended works was not set out in the document produced to the Committee. The Landlord did not proceed to instruct Wise Property Care to carry out the recommended works.
- 9.6. On 27 November 2013 Valentine Property Services Limited ("Valentine") inspected the property on the Landlord's instructions. On 3 December 2013 Valentine reported to the Landlord. They stated that they had found mainly low to moderate moisture meter readings. They considered that mould growth was due to condensation. They noted the lack of an adequate extractor fan in the kitchen and an inadequate fan in the bathroom. They did not believe there was any significant rising or penetrating dampness problem. They did not recommend any treatments but recommended increasing ventilation and having a consistent balance of heating. No action was taken by the Landlord in response to this report.
- 9.7. On 11 February 2014 McFadyen Preservation ("McFadyen") prepared a short survey report for the Landlord following an inspection of the Property. A copy was produced to the Committee. McFadyen reported that there were significantly high moisture readings in sections of plasterwork around the window in the bedroom. McFadyen recommended that treatment works be carried out to this area. The estimated cost was £637.00 plus VAT. McFadyen also reported black mould growth affecting sections of wall plaster in the lounge/kitchen area. McFadyen considered that this was due to the effects of severe condensation and recommended that an Expel Air be installed at separate cost in the kitchen.
- 9.8. On 20 February 2014 the Landlord's agent instructed McFadyen to carry out work in the bedroom in accordance with the recommendation of their report.
- 9.9. On 27 February 2013 the McFadyen works commenced. The Tenant remained in occupation.
- 9.10. In mid-March 2013, following the conclusion of the works by McFadyen, the Landlord's agent inspected the Property. The tenant was present and there was some discussion of a possible early termination of the Agreement which was due to expire on 1 June 2014.

- 9.11. On 23 March 2014 the parties agreed that the Agreement to let the property would be terminated early on 2 April 2014.
- 9.12. On 2 April 2014 the Tenant moved out of the Property.
- 9.13. As at the date of departure the tenant had been withholding some rent.
- 9.14. In about April 2014 an Expel Air was installed in the kitchen.
- 9.15. On 23 April 2014 full re-decoration of the interior of the Property was completed on behalf of the Landlord.
- 9.16. On 24 April 2014 a new tenant moved into the Property.
- 9.17. The living room had recently been redecorated. There was no mould to be seen. There were slight moisture meter readings at the wall behind the sofa.
- 9.18. The kitchen had recently been redecorated. There was no mould to be seen. The door to the back garden had been repainted. There was a functioning Expel Air fan. There were wired fire and carbon monoxide alarms in the kitchen. The boiler was also situated in the kitchen and was in working order.
- 9.19. The hallway and stairs leading to the upper floor had recently been repainted.
- 9.20. The lower window in the hallway had recently been repainted. There was some condensation present on the inside of the pane.
- 9.21. The upper window in the hallway had recently been repainted. There was no mould but some condensation was present on the inside of the pane.
- 9.22. The bathroom had recently been repainted. The extractor fan was in working order.
- 9.23. Recent treatment works had been carried out in the area around the window within the bedroom. There was some condensation on the inside of the window pane and slight moisture readings in the cupboard under the window. The bedroom had recently been repainted.

*Reasons for the Decision*

10. At the inspection it was observed that the whole of the interior of the Property had been redecorated very recently as set out in the findings in fact. The surveyor member was able to inspect the attic area by gaining access from within the bathroom by use of a set of ladders.
11. At the start of the hearing the Landlord's agent made mention of the Valentine report that is described in the findings above. He did not have a copy with him but undertook to produce a copy to the Committee within 7 days. This was subsequently received by the Panel Clerk. The Wise Property Care report made reference to a sketch that was not with the copy produced to the Committee. The Landlord's agent also undertook to check whether he had a copy of the sketch

that was referred to in the Wise Property Care report and if so to send on a copy. This was not received by the Committee.

12. The Committee found that the Landlord has carried out treatment works to the bedroom and that an Expel Air fan has been installed in the kitchen all as recommended by McFadyen. The very recent redecoration has also substantially altered the Property so that it is in a significantly different state from that in which it was at the time when the Tenant made his application. The treatment works recently carried out by McFadyen can be expected to dry out further. As at the date of inspection there was no reason to think that this would not occur. The Committee has concluded that the Property meets the repairing standard as regards the matters complained of by the Tenant.
13. Some minor areas of condensation were noted within the Property. The Committee consider that it is important that the current occupants properly ventilate the property in order to minimise condensation in the bedroom and at the windows in the hallway and staircase.
14. The Committee found that Property did meet the repairing standard in terms of section 13(1)(a) and (d) in that the house is wind and water tight and in all other respects reasonably fit for human habitation and the fixtures, fittings and appliances provided by the Landlord under the tenancy were in a reasonable state of repair and in proper working order. In consequence the Landlord is not in breach of the duty under section 14(1)(b) of the Act to ensure that the Property meets the repairing standard in these respects.

*Decision*

15. From the inspection, and the submissions of the Landlord, that there are no breaches of Section 13(1)(a) and (d) of the Repairing Standard in this case.
16. The committee rejects the tenant's application and declines to make a Repairing Standard Enforcement Order. The decision of the committee was unanimous.

*Right of Appeal*

14. 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 that decision.

*Effect of section 63 of the Act*

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

**P Emidio**

Signed ..... Date 29 May 2014  
Chairman



**Private Rented Housing Committee**

**Minute of Continuation under Schedule 2 Paragraph 7(3) of the Housing  
(Scotland) Act 2006**

**Re: 17 Spylaw Street Edinburgh EH13 0JS ("the Property")**

**Title Number: MID120340**

**The Parties:-**

**CHRISTIAN COOIJMANS, residing at 17 Spylaw Street Edinburgh EH13 0JS  
("the Tenant")**

**ROY DURIE residing at 12 Pentland Avenue Edinburgh EH13 0HZ ("the  
Landlord")**

**Committee members: Pino Di Emidio (Chairman), Ian Mowatt (Surveyor Member)  
and Christine Anderson (Housing Member)**

The Private Rented Housing Committee ("the committee"), having been satisfied that the tenancy of the Property has been lawfully terminated, and accordingly, under Schedule 7(1) of the Housing (Scotland) Act 2006 ("the Act"), the Tenant is to be treated as having withdrawn the application under section 22(1) of the Act. The committee then considered the application and whether it should be determined or whether it should be abandoned, all in terms of Schedule 2 paragraph 7(3) of the Act.

Within the application the Tenant has alleged that repairs require to be carried out to the Property. If substantiated, these allegations are likely to raise concerns relating to potential health and safety risks for occupants and whether the Property is fit for human habitation. Amongst other matters, it has been alleged that the Property is not wind and watertight and that there is dampness in various parts of the Property. The committee considers that the application should be determined on public interest grounds due to the nature of the alleged repairs said to be required and the potential effects for any future tenants if the allegations are substantiated. Accordingly the committee has decided to continue to determine the application.

Signed ..... **P Emidio** ..... Date 27 April 2014  
Chairman