



**REPAIRING STANDARD ENFORCEMENT ORDER  
Ordered by the Private Rented Housing Committee**

**RE: Property at 5 Helmsdale Drive, Dundee DD3 0NJ more particularly described in Land Certificate Title number ANG58742 (hereinafter referred to as “the House”)**

**The Parties:**

**Grace Hocking and John Adams, residing at 5 Helmsdale Drive, Dundee DD3 0NJ (hereinafter referred to as “the Tenant”)**

**Stuart and Yvette Hunt residing at 18 Bank Avenue, Downfield, Dundee DD3 8NY (hereinafter referred to as “the Landlord”)**

**PRHP REFERENCE PRHP/RP/16/0180**

**NOTICE TO STUART AND YVETTE HUNT**

**WHEREAS** in terms of their decision dated 28 July 2016 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 and in particular that the Landlord has failed to ensure that the House meets the repairing standard in that:

- “(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.”*

The Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House meets the repairing standard and that

any damage caused by the carrying out of any work in terms of this Order is made good.

In particular, the Committee requires the Landlord:

1 To put the electrical socket in the kitchen into safe, working order and to produce an Electrical Installation Condition Report prepared by a qualified electrician who is, or whose employer is, registered with NICEIC, SELECT or NAPIT, which confirms that the electrical installations within the House are in safe, working order.

2 To install fire detection devices in compliance with the terms of the Scottish Government Guidance on Satisfactory Provision for Detecting and Warning of Fires.

3 To brush down and repaint the exterior wood cladding.

4 To put the rear facing windows of the House into reasonable condition, either by replacement or repair such that the windows are reasonably free of misting.

5 To remove the mould present in the loft area.

6 To carry out investigations in relation to the drains relating to the House and to remove any blockages so that the drains run freely and waste can be flushed from the toilet without difficulty.

7 To put the roof into a state of repair such that it is reasonably weatherproof and watertight and has adequate ventilation to prevent the build up of moisture and mould in the loft area.

The Committee orders that the works specified in this Order must be carried out and completed within 28 days from the date of service of this Notice.

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 the decision.

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

IN WITNESS WHEREOF these presents typewritten on this and the preceding two pages are signed by John Miller McHugh, Chairperson of the Private Rented Housing Committee at Edinburgh on the Twenty Eighth day of July Two Thousand and Sixteen in the presence of the undernoted witness:

J McHugh

Chairperson

Witness

GILIAN MCHUGH

Witness Address

65 HAYMARKET TERRACE  
EDINBURGH



**DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE**

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE  
UNDER SECTION 24(1)  
OF THE HOUSING (SCOTLAND) ACT 2006**

**In connection with**

**Property at 5 Helmsdale Drive, Dundee DD3 0NJ (hereinafter referred to as  
“the House”)**

**Grace Hocking and John Adams, residing at 5 Helmsdale Drive, Dundee DD3 0NJ  
(hereinafter referred to as “the Tenant”)**

**Stuart and Yvette Hunt residing at 18 Bank Avenue, Downfield, Dundee DD3  
8NY (hereinafter referred to as “the Landlord”)**

**PRHP REFERENCE PRHP/RP/16/0180**

**DECISION**

The Committee having made such enquiries as are fit 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 (hereinafter “the Act”) in relation to the House, and taking account of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

**Background**

By application received on 5 May 2016 (hereinafter referred to as “the Application”) the Tenant applied to the Private Rented Housing Panel (hereinafter “the PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and,

in particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

*“(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.”*

The Tenant complained of a number of defects in the condition of the House.

By letter of 31 May 2016, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

The Committee comprised the following members:

John McHugh, Chairperson  
David Lawrie, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

The Committee inspected the House on 21 July 2016. Ms Hocking was present. The Landlord was neither present nor represented.

A hearing took place thereafter at Caledonian House, Dundee. Ms Hocking was present and supported by a friend. Mr and Mrs Hunt were both present.

### **Submissions at the Hearing**

The Landlord has instructed the repainting of the house and those works are ongoing.

The Landlord advised that quotes had been obtained for replacement of the roof but that these were prohibitively expensive at £10,000. The Landlord recognised that replacement would be desirable but advised that repair may be all that can be afforded at present.

The Landlord advised that treatment of the mould had already been instructed.

The Landlord acknowledged the problems with the three rear windows and again quotations had been obtained.

The Tenant was concerned that quotations were often obtained but that they did not lead to work being carried out.

The Tenant complained that there were frequently foul smells emanating from the drain pipes in the bathroom and kitchen and that faeces would not flush away properly. The Landlord advised that plumbers had investigated and failed to find a problem. The Tenant reports that plumbers' investigations had been limited to indoor plumbing and that the drains had not been investigated. The Tenant advised that the problems occur intermittently.

The Landlord acknowledged that the fire protection measures required to be updated and again matters were said to be in hand in that regard.

The Landlord advised that it was unaware of the condition of the electrical socket and would address this. The Landlord confirmed that there was no Electrical Installation Condition Report (EICR) for the property.

### **Summary of the Issues**

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14 (1)(b).

### **Findings in Fact**

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

The Landlord and the Tenant have entered into a written Tenancy Agreement dated 26 and 30 May 2014.

A tenancy exists between the Landlord and Tenant.

Stuart Peter Hunt is the registered owner of the House.

The Tenant took possession of the House from 31 May 2014 and the Tenant remains in occupation.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defects in the House which are now the subject of the Application by letter dated 3 May 2016 addressed to the Landlord.

The inspection on 5 July 2016 revealed:

The House is clad in wood. The paintwork is in very poor condition and has worn off the wood cladding. Some small areas have recently been repainted.

A considerable amount of mould is present in the loft area.

The loft area is very poorly ventilated.

The toilet flushes normally and bathwater appears to drain away as expected.

The roof is in poor condition and is at the end of its lifespan.

The only fire detection device is a battery operated smoke detector in the hall. It is not working.

There is a broken electrical socket in the kitchen.

The three rear windows' double glazing units have failed and are heavily misted between the panes of glass.

A schedule of photographs taken at the inspection is appended to this Determination.

## **Reasons for the Decision**

### Exterior

The paintwork on the exterior wood is peeling and in very poor condition and needs repainted.

### Loft/Roof

The roof is in poor condition and is at the end of its lifespan. The roof is constructed with rosemary tiles which have now reached they end of their life and are failing to resist water effectively. Water is entering the loft space. The loft space has very little ventilation. This has resulted in a considerable amount of black mould becoming present in the loft space.

The Landlord is reminded that grant funding may be available to assist with the cost of re-roofing and may wish to investigate this with the local authority.

### Drainage

On inspection the toilet flushed normally and bathwater appeared to drain away as expected. Nonetheless, we accepted the Tenant's evidence of intermittent drainage problems as being credible and reliable and we consider that there is likely to be a drainage problem at the House.

#### Fire detection

The only fire detection device is a battery operated smoke detector in the hall. It is not working.

#### Electrical

There is a broken electrical socket in the kitchen which presents a danger and requires to be replaced.

#### Windows

The three rear windows' double glazing units have failed and are heavily misted between the panes of glass.

We consider each of these matters to constitute a breach of the repairing standard.



### Repairing Standard Enforcement Order

Having decided to make a Repairing Standard Enforcement Order, the Committee considered the length of time which should be provided for compliance. The Committee elected to impose a period of 28 days having regard to the fact that some of the defects identified have potential impact upon the health and safety of occupants of the House.

The Landlord is reminded that it may apply for additional time if the works take longer than anticipated. In particular, it is acknowledged that certain matters such as dealing with the windows and roof may be expected to take longer than dealing with the electrical, fire detection, drainage and painting issues. The Committee would be unlikely to grant any extension if it were not satisfied as to the progress which had been made in dealing with the matters which have safety implications. If, however, such matters were dealt with, the Committee would be more likely to grant additional time as appropriate to deal with larger items and a period of three months might be thought to be appropriate time to deal with major items.

### **Decision**

The Committee, considering the terms of section 13(3) of the Act, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(2) of the Act.

The decision of the Committee was unanimous.

## Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

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

John M McHugh  
Chairperson

Date: 28 July 2016

**Schedule of Photographs  
5 Helmsdale Drive**

- 1 Damaged power point in kitchen**
- 2 Front roof pitch**
- 3 Gable end**
- 4 Non functioning smoke detector taken down**
- 5 Rear elevation 1**
- 6 Rear elevation 2**
- 7 Rear roof pitch**
- 8 Roofspace 1**
- 9 Roofspace 2**



















