



Notice of a decision to vary

A Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP/RP/13/0136

Re: All and whole the flat on the top floor known as Flat 3, 44C Portobello High Street, Edinburgh, EH15 1DA being part of the subjects more particularly described in the Disposition by Scottish Midland Co-operative Society Limited recorded in the Division of the General Register of Sasines for the County of Midlothian on 21 December 1984.

("the Property")

The Parties:-

**Mrs Norma Arthur
resident at the Property**

("the Tenant")

and

**Mr Mohammed Afzal
150 Craigcrook Road
Edinburgh
EH4 3PP**

("the Landlord")

NOTICE TO THE LANDLORD

In a decision dated 9 February 2014, the Private Rented Housing Committee agreed to make a Repairing Standard Enforcement Order ("the RSEO") relative to the Property. Having re-inspected the Property on 15 September 2014 the Committee determined that the RSEO should be varied. Accordingly the RSEO is hereby varied with effect from the date of service of this Notice in the following respect:-

- (i) The period of time allowed for completion of the works required by the RSEO is extended for a further 6 weeks.
- (ii) To comply with the RSEO the Landlord is required to repair the pointing in the front external wall of the Property.

Section 25(3) of the Housing (Scotland) Act does apply in this case.

A Landlord or a 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.

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.

Signed R Handley
Chairperson

Date 1/10/14



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

PRHP/RP/13/0136

Re: The residential dwellinghouse at

**Flat 3
44C Portobello High Street
Edinburgh
EH15 1DA**

("The Property")

The Parties:-

**Mrs Norma Arthur
resident at the Property**

("the Tenant")

and

**Mr Mohammed Afzal
150 Craigcrook Road
Edinburgh
EH4 3PP**

("the Landlord")

The Committee comprised:

**Mr Ron Handley – Chairperson
Ms Susan Napier – Surveyor
Ms Helen Barclay – Housing Member**

The Committee's Decision

The Committee determined that the Repairing Standard Enforcement Order ("the RSEO") dated 9 February 2014 relative to the Property, should be varied.

Background

1. On 31 October 2013 Mrs Arthur applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not Mr Afzal had failed to comply with the duties imposed by Section 14(1) (b) of the Act.
2. Following receipt of Mrs Arthur's application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee ("the Committee") in accordance with Section 22(1) of the Act.
3. The Committee inspected the Property on 17 January 2014. Mrs Arthur was present at the inspection and the Landlord was represented by Mr Wasim Aslam. Both parties attended the Hearing held at 11:00am in Leith Community Centre after the inspection.

Findings

4. The Committee found the following facts to be established:
 - On 9 June 2000 Mrs Arthur and Mr Afzal entered into a Tenancy Agreement that related to the Property. A Tenancy Agreement is still in place between the parties.
 - The Property is located within a communal stair of properties and was built 80 - 100 years ago. The Property comprises a living room, double bedroom, single bedroom, kitchen, bathroom and a hallway with a store. The Property is heated by a gas central heating system.
 - There is water ingress within the Property as evidenced by marks/stains in the ceilings throughout the Property.
 - The wall in the double bedroom adjacent to the neighbouring tenement is damp at a high level (for about 2 metres from the ceiling). There is also dampness in the double bedroom party wall.
 - The windows in the hall and in the double bedroom are not wind tight and require to be adjusted/repaired.

The Repairing Standard Enforcement Order

5. The Committee determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act and in particular the Landlord had failed to ensure that the Property was wind and watertight and in all other respects fit for human habitation.
6. The Committee issued a Repairing Standard Enforcement Order ("the RSEO") requiring the Landlord to carry out the following works (or other such works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard):-

- (a) The Landlord was to carry out all appropriate investigations (including but not limited to an inspection of all roof areas, gutters and downpipes) to identify the source of water ingress in the ceilings throughout the Property and in the walls in the double bedroom.
 - (b) The Landlord was to carry out such works as were necessary to eradicate the water ingress in the ceilings throughout the Property and the dampness in the walls in the double bedroom.
 - (c) The Landlord was to carry out repairs/adjustments to the windows in the living room and in the double bedroom to ensure that they were wind and watertight.
 - (d) The Landlord was to provide the Committee with a valid Landlord's Gas Safety Certificate which related to the system for space heating and heating water within the Property.
 - (e) The Landlord was required to make good any damage resulting from the remedial works carried out in accordance with the RSEO.
7. The Private Rented Housing Committee ordered that the works specified in the RSEO be carried out and completed on or before 30 April 2014.

The Re-inspection/Hearing

8. Mrs Arthur was present at the re-inspection on 15 September 2014 and the Landlord was represented by Mr Wasim Aslam. Both parties attended the Hearing held at 11:00am in Leith Community Centre after the re-inspection.

The decision

9. The Committee accepted that the Landlord had produced a valid Landlord's Gas Safety Certificate which related to the system for space heating and heating water within the Property (as required by the RSEO).
10. At the Hearing and in response to questions from the Committee Mr Aslam advised that works had been carried out to the roof of the Property to prevent water ingress. He provided the Committee with copies of estimates/invoices showing the works that had been carried out. He also made available photographs of the roof which showed the area of the roof which had been repaired. He advised the Committee of the nature of the works which had been completed. In the course of the re-inspection Mrs Arthur confirmed that she had not noticed any water ingress in the ceilings. Given these circumstances and using the expertise and knowledge of the Committee, the Committee accepted that the Landlord had carried out appropriate investigations to identify the source of water ingress in the ceilings throughout the Property and that appropriate works had been executed to remedy these defects.

11. In accordance with the RSEO the Landlord was to carry out repairs/adjustments to the windows in the living room and in the double bedroom to ensure that they were wind and watertight. The Committee noted that the window units were modern and appeared to be well fitting. Mrs Arthur accepted that adjustments had been made to the windows. In these circumstances and taking account of the age and character of the Property, the Committee accepted that the windows in the living room and in the double bedroom met the Repairing Standard.
12. The RSEO required the Landlord to identify the source of water ingress in the internal wall in the double bedroom. On the day of the re-inspection a Protometer was used to measure the level of dampness in this wall and it was found that there was no dampness. It seemed likely that the water ingress in this wall had been caused (in part at least) by the defects in the roof which had now been remedied. However it was clear to the Committee that pointing was missing from the front facing external wall and it appeared likely that this would also contribute to water ingress particularly during periods of high wind and rainfall. Mr Aslam accepted that this was an issue which required to be addressed and he advised the Committee that arrangements were in place to carry out the remedial works in the near future.
13. The Committee accepted that investigations had been carried out and works executed to remedy most of the defects identified in the RSEO. However the pointing in the front facing external wall still requires to be repaired and in these circumstances it was clear that the RSEO had not been fully complied with. The Committee reminded Mr Aslam of the power it had to make a Rent Relief Order. Mr Aslam requested that the Committee refrain from doing so reminding the Committee that all remaining works would be completed in the very near future. Having considered all relevant matters, the Committee agreed that at this stage it was not necessary to make a Rent Relief Order.
14. The Committee agreed to vary the RSEO by extending the period of time specified in the Order whereby all remaining works must be carried out and completed within a period of 6 weeks from the date of service of the Notice to Vary (attached hereto).
15. The decision of the Committee was unanimous.

Right of Appeal

16. A Landlord(s) or Tenant (s) aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63

17. 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. 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.

Signed M G U Date 1/10/14
Chairperson