



REPAIRING STANDARD ENFORCEMENT ORDER
Ordered by the Private Rented Housing Committee

RE: Property at 53/4 Murrayburn Park, Edinburgh EH14 2PN as more particularly described in Land Certificate Title Number MID119594 (hereinafter referred to as “the House”)

The Parties:

Louise Connor, 53/4 Murrayburn Park, Edinburgh EH14 2PN (hereinafter “the Tenant”)

Sandra and James Carson, 51 Murrayburn Park, Edinburgh EH14 2PN (hereinafter “the Landlord”)

PRHP REFERENCE PRHP/RP/14/0060

NOTICE TO SANDRA ANITA CARSON AND JAMES CARSON

WHEREAS in terms of their decision dated 15 September 2014 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,...

(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...”

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 remove the mould present in the bathroom and re-paint the affected areas with anti-mould paint.
- 2 To modify the existing bathroom extractor fan or to install a new extractor fan which has a delay causing the fan to continue to operate for a period of five minutes after the light switch has been switched off.

The Committee order that the works specified in this Order must be carried out and completed within 60 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 page are signed by John Miller McHugh, Chairperson of the Private Rented Housing Committee at Edinburgh on the Sixteenth day of September Two Thousand and Fourteen in the presence of the undernoted witness:

J McHugh
Chairperson

L Kemp

Witness

LEWIS KEMP

Witness Address

*3 MONTON ST
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 53/4 Murrayburn Park, Edinburgh EH14 2PN (hereinafter
referred to as “the House”)**

**Louise Connor, 53/4 Murrayburn Park, Edinburgh EH14 2PN (hereinafter
referred to as “the Tenant”)**

**Sandra and James Carson, 51 Murrayburn Park, Edinburgh EH14 2PN
(hereinafter referred to as “the Landlord”)**

PRHP REFERENCE PRHP/RP/14/0060

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 evidence led by the Tenant at the hearing and 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 dated 24 February 2014 (hereinafter “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...”*

The Tenant complained that the central heating/hot water system was not working properly, of problems with the pressure of the kitchen hot water tap and of dampness in the bathroom.

By letter of 12 March 2014, 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
Helen Barclay, Housing Member
Ian Murning, 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 12 September 2014. Sandra Carson was present on behalf of the Landlord. The Tenant was present and accompanied by her representative, Rebecca Reilly of CHAI.

Following the inspection, the Committee held a hearing at Carrickvale Community Centre, Saughton Mains Street, Edinburgh. The Committee considered the written evidence submitted by the parties and heard brief representations from the Tenant’s representative. The Tenant herself was not present. The Landlord was neither present nor represented, Mrs Carson having indicated that she and her husband did not intend to attend.

Submissions at the Hearing

The Tenant had advised at the inspection that she wished to withdraw her complaints in respect of the central heating, hot water and water pressure. A new boiler had been fitted recently and these problems have been resolved to the Tenant’s satisfaction. The Tenant’s representative confirmed that this was the case and that the new boiler had been installed two days prior to the inspection.

A discussion was had with the Tenant's representative that the problem in the bathroom was most likely one of surface condensation and she had no further submission to make on this issue.

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 entered into a Tenancy Agreement in respect of the House on 14 August 2013.

The Landlord was recorded on the Lease as Sandie and Jim Carson.

James Carson and Sandra Anita Carson are the registered owners of the House.

The Tenant has occupied the House since 15 August 2013.

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 recorded delivery letters issued by her representative, Martin Barnes of CHAI, dated 4 and 17 February 2014.

The inspection on 12 September 2014 revealed:

The property is a first floor, ex-local authority flat.

A new Vokera boiler had been installed in the kitchen.

In the bathroom, mould growth was present on the ceiling above the bath.

A Shower is fitted over the bath.

An extractor fan operates when the bathroom light is switched on and stops operating when the light is switched off.

There is no window in the bathroom.

Reasons for the Decision

The Repairing Standard

The mould present in the bathroom is entirely consistent with surface condensation caused by use of the shower and there was no evidence of any other causes or of penetrating dampness. It seems likely that the existing air extraction arrangements are insufficient to deal with the moisture build up caused by showering.

After discussion at the inspection, Mrs Carson, on behalf of the Landlord, undertook that the Landlord would voluntarily repaint the area affected by mould with anti-mould paint and install or make alterations to the existing extractor fan so that the fan continues to run for a five minute period after the light switch has been turned off, in order to reduce the condensation problem. On that basis, the Committee elected to make an order consistent with the Landlord's undertaking.

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 60 days, having regard to the likelihood that the relatively minor works required could be completed within that timescale.

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.

J McHugh

John M McHugh
Chairperson

Date: 15 September 2014