



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/16/0042

Re: Property at 141 Broomfield Crescent, Edinburgh, EH12 7LU ("the Property")

Title No: MID11221

The Parties:-

PAULINE WINIFRED GILLIES, 19 Gordon Road, Edinburgh ("the Landlord")

MRS DEBORAH BRENCHLEY 141 Broomfield Crescent, Edinburgh, EH12 7LU (represented by her agent Ms Anna Mencil, Community Help & Advice Initiative, ELS House, 555 Gorgie Road, Edinburgh, EH11 3LE) ("the Tenant")

NOTICE TO PAULINE WINAFRED GILLIES ("the Landlord")

Whereas in terms of their decision dated 8 June 2016, the Private Rented Housing 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 that the landlord has failed to ensure that:-

- (a) The property is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (c) The installations in the Property 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 Landlords under the tenancy are in a reasonable state of repair and in proper working order;

the Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned 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 Private Rented Housing Committee requires the landlord:-

- (a) To carry out such works as are necessary to allow the issue of an unqualified electrical installation condition report with no items marked C1 or C2.
- (b) To carry out such works of repair or replacement to the gas system within the Property to allow the issue of a clear and current gas safety certificate. The Landlord is also to carry out such works as are necessary to provide Thermostatic Radiator Valves on all radiators and to ensure that they are in proper working order.
- (c) To carry out such works of repair or replacement to the windows to the Property to ensure that they are all capable of being opened and closed properly, capable of being properly locked and are otherwise properly wind and watertight.
- (d) To install a door between the kitchen and hallway and also the lounge and the hallway.
- (e) To carry out such works of repair to the roof of the Property to ensure the Property is wind and watertight. The Landlord would also require to carry out any repairs around the Velux roof lights that are required.
- (f) To repair or replace the oven, hood and hob and to render them compliant with the repairing standard.

- (g) To carry out such works of repair or replacement to the plumbing system to ensure that it is in proper working order and all items are capable of being used correctly and safely.
- (h) To carry out such works of repair or replacement to the manhole cover in the front garden to ensure that it is in a safe and proper working order.
- (i) To replace the two concrete sills on the first floor rear elevation of the Property.
- (j) To repair or replace the garden shed at the Property and to ensure it is properly wind and watertight and capable of being used for storage.
- (k) To carry out appropriate works of redecoration and repair to the two small bedrooms within the Property and to ensure that they are compliant with the relevant building regulations.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 2 months from the date of service of this Notice.

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 8 June 2016 before this witness:-

C Robertson

E Miller

witness

_____ Chairman

Claire Robertson
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ



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

prhp Ref: PRHP/RP/16/0042

Re: Property at 141 Broomfield Crescent, Edinburgh, EH12 7LU ("the Property")

The Parties:-

MRS DEBORAH BRENCHLEY residing at 141 Broomfield Crescent, Edinburgh, EH12 7LU (represented by her agent Ms Anna Mencil, Community Help & Advice Initiative, ELS House, 555 Gorgie Road, Edinburgh, EH11 3LE) ("the Tenant")

PAULINE WINAFRED GILLIES, 19 Gordon Road, Edinburgh ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by both the Landlord and the Tenant at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application received by the Panel on 2 February 2016 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 Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
 - (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
 - (c) The installations in the Property 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 Landlords under the tenancy are in a reasonable state of repair and in proper working order;
 - (e) Any furnishings provided by the Landlords under the tenancy are capable of being used safely for the purpose for which they are designed;
3. By letter dated 17 March 2016 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.

4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
5. Following service of the Notice of Referral the Tenant's representative made written representation to the Committee dated 6 April 2016. The Landlord made no written representations to the Committee.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member and Mr R Buchan, Surveyor Member) inspected the Property on the morning of 6 May 2016. The Tenant, her partner and her representative were present and provided access. The Landlord was not present or represented.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at George House, 126 George Street, Edinburgh, EH2 4HH. The Tenant and her representative were present. The Landlord was not present nor represented.
8. The Tenant and her representative submitted that there was a catalogue of defects within the Property that rendered it unsafe and meant the Property breached the repairing standard. They alleged that the Property was not wind and watertight, that there were problems with the windows, problems with damp and mould, problems with a concrete ledge falling apart. They alleged that the heating system was not properly working and there was no thermostat or Thermostatic Radiator Valves. They highlighted there was no gas safety certificate. They had concerns about both the electrical system within the Property and whether it was safe and also general issues with the plumbing. There were issues regarding the main bathroom in particular. Externally the Tenant was concerned about the condition of the shed and also a large manhole cover in the front garden which appeared to be semi-collapsed.
9. There were no submissions of note from the Landlord to be considered..

Summary of the issues

10. The issues to be determined were:-
 - (1) Whether the electrical installation within the Property was in proper working order and met the repairing standard.
 - (2) Whether the gas and heating system within the Property was in proper working order and met the repairing standard.
 - (3) Whether the windows were properly wind and watertight and capable of being opened and closed correctly.
 - (4) Whether there were missing doors in the Property to the kitchen and lounge.
 - (5) Whether the exterior of the Property was properly wind and watertight.
 - (6) Whether the oven, cooker hood and hob were in proper working order and met the repairing standard.
 - (7) Whether the plumbing in the Property met the repairing standard.
 - (8) Whether the exterior manhole cover in the front garden met the repairing standard.
 - (9) Whether the concrete sills to the rear of the Property met the repairing standard.
 - (10) Whether the shed at the Property met the repairing standard.
 - (11) Whether the upstairs extension met the repairing standard.

Findings of fact

11. The Committee found the following facts to be established:-

- The electrical installation within the Property was not safe and did not meet the repairing standard.
- There was no evidence of a gas safety certificate or other evidence that the gas system within the Property was compliant. It was evident that thermostatic radiator valves had been removed from radiators and had not been replaced.
- A number of the windows were non-compliant as there were no keys or they were not properly wind and watertight.
- Doors to the kitchen and lounge have been removed and are no longer in place"
- The exterior of the Property was not properly wind and watertight in that there were missing slates on the roof. The areas around the velux roof lights also appeared to be in poor condition in that some slates look to be on the point of falling.
- The oven, cooker hood and hob were not in proper working order.
- The plumbing within the Property appeared to be of low standard and did not meet the repairing standard.
- The manhole cover area did not meet the repairing standard.
- The concrete sills to the rear of the Property were badly corroded, dangerous and did not meet the repairing standard.
- The shed at the Property did not meet the repairing standard.
- The upstairs extension had been built to a very poor standard and was inadequate.

Reasons for the decision

12. The Committee based its decision primarily on the evidence obtained during the course of the inspection.

The Committee first inspected the electrical system within the Property. The Tenant had a young daughter who suffered from a severe disability. Within the child's bedroom there was a cupboard in which there were numerous loose and exposed wires which could readily be accessed by a child. There was evidence throughout the Property of poor quality wiring. In the upstairs bathroom there were a number of areas of wiring exposed and loose fittings. Overall it appeared to the Committee that it was highly likely that the current system was unsafe and dangerous. The Landlord would require to provide an Electrical Installation Condition Report showing that all works that would otherwise be marked C1 or C2 on the report had been attended to and that the certificate was now clear.

The Tenant reported that they had had difficulties with the boiler and had no sight of a Gas Safety Certificate. The Committee would highlight there is a legal obligation on the Landlord to provide a current gas safety certificate at all times. The Landlord would require to carry out any works required to allow the issue of an unqualified gas safety record. The Committee also noted that a number of the radiators did not appear to be working within the Property and also that virtually all radiators within the Property lacked Thermostatic Radiator Valves (TRVs) which clearly had been removed. Without TRVs it was impossible for the Tenant to control the temperature of the individual radiators and

this led to a risk of the Tenant's daughter scalding herself on radiators that were excessively hot.

The Committee inspected the windows at the Property. A number of these lacked keys in order that the Tenant could both open and lock them. The rear two windows on the first floor of the Property were in poor condition and were not properly wind and watertight. The Landlord would require to carry out appropriate repairs or replacement to the windows to address this. The Tenant had alleged that there were mould problems with the windows. The Committee did not see any material evidence of this and was satisfied that any such mould was simply minor and caused by condensation rather than any fundamental flaw.

The Tenant highlighted that there was no door in the lounge to the hallway and from the kitchen to the hallway. This was a health and safety risk to the Tenant's daughter who was able to run into the kitchen without being stopped by a door. The Landlord would require to provide these two doors and to re-install them.

The Committee noted from an external inspection that there were slates on the Property that were slipped or missing and these would require to be addressed. The areas around the Velux roof lights also appeared to be damaged and a check would require to take place of these and any necessary repair works carried out.

The Committee inspected the oven, hood and hob at the Property. The front panel of the oven was missing thus rendering it almost impossible to ascertain the correct manner in which to cook food. The hood also appeared to be in poor working order. The hob did not appear to be in proper working order and should be checked and any repairs required in terms of the gas safety certificate carried out.

The Committee inspected the plumbing system within the Property. The Committee had particular concerns about the upstairs bathroom on the second floor. The sink was loose, the Jacuzzi bath was not in proper working order, the shower head had exposed wiring and a loose light fitting. There was a poor seal around the shower and no seal around the bath and there was evidence of water penetration around light fittings as well. Overall the Committee was dissatisfied with the standard of plumbing within the Property and this would require to be checked and all appropriate repairs carried out throughout.

The Committee inspected an area to the right side of the front garden. This area was sunken and there was an old manhole cover exposed. This appeared to be in poor condition and dangerous to children. This would require to be made safe and the area tidied up.

The concrete sills to the rear two first floor windows were in very poor order. Large chunks of concrete had fallen away and would have landed in the garden below. This was exceptionally dangerous and could cause severe injury. The Landlord would require to replace the two concrete sills. This may also necessitate the Landlord replacing the two windows at the back as a result.

The Committee inspected the shed at the Property. There were holes in the roof of this and it was letting in water. The shed was provided as part of the lease and therefore required to be in reasonable condition to allow the Tenant to store goods in it. Accordingly the Landlord would require to repair or replace the shed to ensure it was sufficiently wind and watertight and fit for purpose.

The Committee inspected the second floor roof space extension of the Property. In addition to the large bathroom, two small bedrooms had been created. These were very small and had been done to a very poor standard. There were large gaps in the skirting. There were small holes in the walls. It was possible to see daylight from one bedroom through to the other due to the gap at the top of the wall. The Tenant's other two children lived in the Property and this caused some issues for them. The Committee had concerns that the extension had been carried out without consent and had not been done to an

appropriate standard. The two bedrooms appeared to have been formed by the subdivision of an original bedroom from the time the extension was originally built.

Whilst not complained of, the Committee noted that whilst there were sufficient carbon monoxide detectors in the Property, there was a lack of hardwired interlinked smoke alarms in the Property and also a heat detector in the kitchen. The Landlord would require to address this as part of their requirement to comply with Housing law generally.

Overall the Committee was readily satisfied that this Property fell far below the repairing standard. The Committee considered that the Landlord required to carry out numerous works as soon as possible. The Committee determined that two months would be an appropriate period for the work to be completed.

As is apparent from the explanation above, the Committee had no difficulty in deciding that the Property breached the repairing standard. The Property was in poor condition and had numerous defects. The Committee was concerned to note that the Tenant had difficult family circumstances and, in particular, had a small child who suffered from a severe disability. The house was unsafe and the danger was exacerbated because of the issues faced by the Tenant's daughter. The Committee was of the view that the Property was not safe living accommodation for the Tenant and her family.

The Committee was disappointed that there had been no interaction from the Landlord and little or no attempt to comply with the repairing standard.

Subsequent to the inspection and hearing, some correspondence was received from the Landlord that they intended to do some works. Whilst the Committee was encouraged by this, no representations had been received timeously and accordingly the Committee was content that it was appropriate to issue its determination based on the evidence obtained during the course of the inspection.

Photos were taken and accompany this Decision.

Decision

13. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
14. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
15. The decision of the Committee was unanimous.

Right of Appeal

16. **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

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, 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.

E Miller

Signed
Chairperson

..... Date 8/6/16

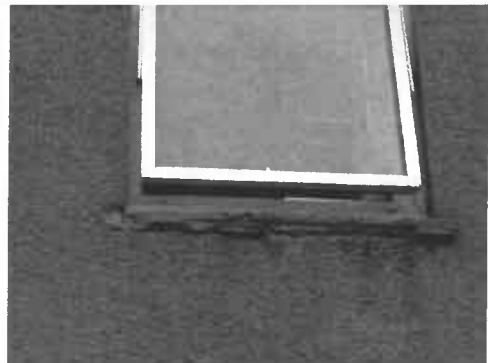
Schedule of photographs taken during the inspection of
141 Broomfield Crescent, Edinburgh, EH12 7LU
by Robert Buchan, FRICS, surveyor member of the
Private Rented Housing Committee on the 6th May 2016



Front



Rear



Kitchen window sill



Bedroom window sill

Schedule of photographs taken during the inspection of
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Detail showing loose/missing slates



Loose manhole covers



Hole in roof of shed



Missing thermostatic radiator valve

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No cover on gas meter box



Leak below sink



No living-room door



No kitchen door

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Delaminating wall unit



Delaminating base unit



Missing front panel on cooker



Loose/dangerous wiring in wardrobe

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Loose light fitting



Rusting radiator towel rail

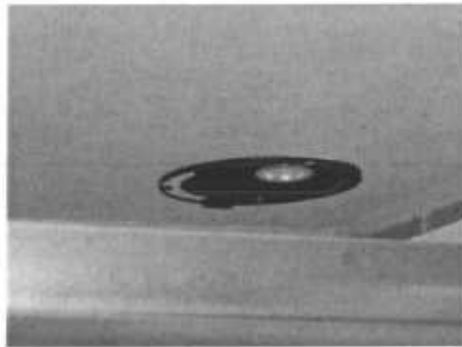


Loose wash hand basin



Dangerous light fitting

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Missing cover on extractor unit



Non connected pipe

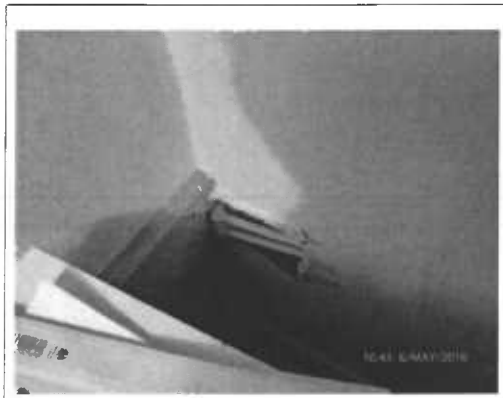

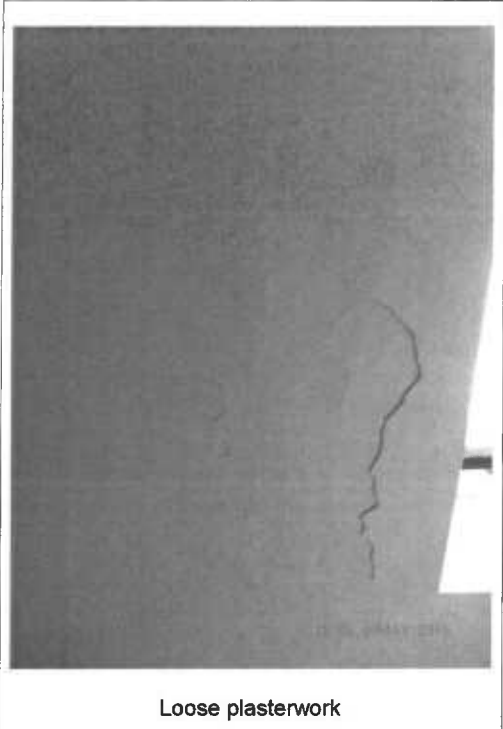
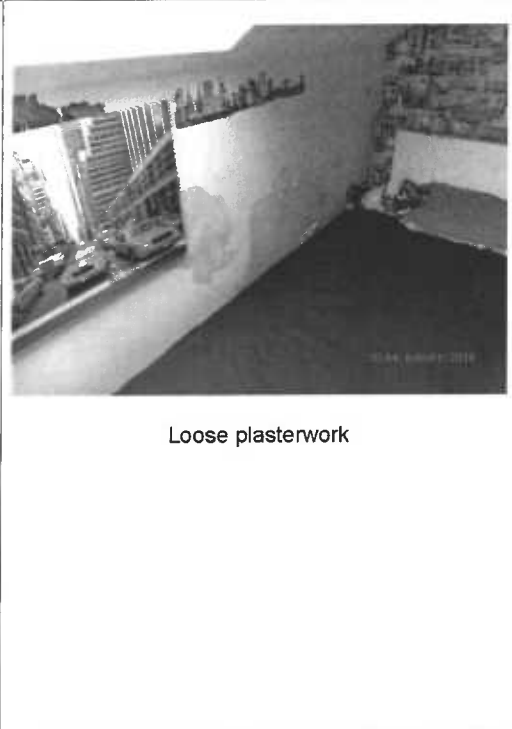


Spa bath



Mould below skylight window

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<p>Missing panel</p>	<p>Shrinkage in plasterwork</p>
	
<p>Loose plasterwork</p>	<p>Loose plasterwork</p>