

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re : The dwelling house at 9 Onslow Drive, Glasgow, G31 2LY being the subjects registered in the Land Register of Scotland under Title number GLA79202 ("the House")

The Parties:-

Makhtar Mohammed residing at 9 Onslow Drive, Glasgow, G31 2LY 1EL on behalf of the tenants of the House, namely himself, Mr Mohammed, Mr Mohammed, Mrs Mohammed, Mrs Mohammed and Mrs Mohammed ("the Tenant")

Matthias Colombini and Karen Colombini residing together at 167 Whitehill Street, Dennistoun, Glasgow (represented by their agents , Fineholm Letting Services, 1st Floor, 114 Union Street, Glasgow G31 3QQ ("the Landlord")

NOTICE TO

Matthias Colombini and Karen Colombini

Whereas in terms of their Decision dated 19th November 2008, the Private Rented Housing Committee determined that the landlord has failed to comply with the duty imposed by Sections 14 (1)(a) and 14(1)(b) of the Housing (Scotland) Act 2006 and in particular:-

The landlord has failed to ensure (1) that the upstairs rear bedroom and the upstairs front bedroom are wind and water tight and in all other respects reasonably fit for human habitation as required by section 13(1)(a) of The Housing (Scotland) Act 2006 and (2) that the sitting room ceiling, the rear garden and the coping stone forming part of the front steps of the house are in a reasonable state of repair and proper working order as required by section 13(1)(b) of The Housing (Scotland) Act 2006.

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 to:-

- (1) Repair and make good the ceiling in the living room.
- (2) Repair the water ingress and render the walls and ceiling in the front and rear bedrooms wind and water tight and fit for human habitation.
- (3) Remove the bricks and building materials from the rear garden.
- (4) Permanently repair and make good the stone coping stone forming part of the front entrance steps to the house.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of two 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.

Signed..... **J Taylor** Date 19th November 2008
Chairperson *for and on behalf of the Private Rented Housing Panel.*

..... **E Shedden** Witness
Elizabeth Giffen Shedden
65 High Street, Irvine, KA12 0AL

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

Re : The dwelling house at 9 Onslow Drive, Glasgow, G31 2LY ("the House")

The Parties:-

Makhtar Mohammed residing at 9 Onslow Drive, Glasgow, G31 2LY 1EL on behalf of the tenants of the House, namely himself, Mr Mohammed, Mr Mohammed, Mrs Mohammed, Mrs Mohammed and Mrs Mohammed. (The said Makhtar Mohammed being hereinafter referred to as 'The Tenant')

Matthias Colombini and Karen Colombini residing together at 167 Whitehill Street, Dennistoun, Glasgow (represented by their agents, Fineholm Letting Services, 1st Floor, 114 Union Street, Glasgow G31 3QQ ("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 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 dated 25th August 2008 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 house is wind and watertight 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.
3. The President of the Private Rented Housing Panel, having considered the application, referred 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 made written representations to the Committee by forwarding to them the following:-

- (a) A copy of the lease of the House.
- (b) A copy of the letter he sent to the Landlords' agents dated 10th September 2008 restating his request for the repairs to be carried out and advising the landlords' agents that he has been asking for the repairs to be carried out since May 2008.
6. Following service of the Notice of referral the Landlords' agents made representations to the Committee by an undated letter advising:-
- Lounge Ceiling Collapse. The ceiling collapsed on 9th May 2008 and they immediately submitted an insurance claim. On 30th July 2008 the claim was refused as the insurance company claimed that the collapsed ceiling was the result of wear and tear. Since then the landlords' tradesmen have carried out a temporary repair to the external roof and they have instructed their contractor to repair the ceiling in question. They are currently awaiting that start date.
- Upstairs bedroom damp due to blockage of gutter. They were first notified of this problem on 19th August. Their contractor attended on 20th August, cleared gutters and checked internally and confirmed all ceilings were safe.
- Bottom toilet damp due to burst pipe. They were first notified of this on 18th August and were advised that there was water running down the living room walls. Their contractor attended within a day and was advised that the water was coming from a faulty tap at the wash hand basin. This was repaired immediately.
- Water leak in upstairs front bedroom. They were first notified of this at the end of August. The landlords have had their contractor assess it and he has since secured the roof with a temporary cover to stop any further water ingress.
- Back garden full of hazardous building materials. At the tenant's request they had the garden cleared of all building materials with the exception of a small quantity of roofing materials. The attached photo is very misleading as the back wall has been repaired and temporary fencing removed. The tenants also admitted to one of our contractors that their children had a habit of playing with the bricks etc before the wall was repaired and has spread them around the garden.
- Large stone block at top of stairs, very loose and a safety hazard. Again only notified of this at the end of August. Their contractor has secured the stone with a wooden jammer and it is therefore no longer loose.
- The tenant contacted them many times while the insurance claims were being processed they gave him an update each time. Following rejection of the claim on the lounge ceiling they contacted the landlords advising them of the situation, providing them with an estimate for the repair which they found to be too expensive and agreed to get their own tradesman. All other repairs were dealt with immediately they were notified to them.'
7. The Private Rented Housing Committee attended at the House on 12th November 2008. The Tenant was present and the committee inspected the alleged defects and found as follows:-
- (a) **Sitting room ceiling needs repair.**
The committee saw that there was a substantial section of plaster missing in the ceiling and the strap and lathe were exposed.
- (b) **Upstairs bedroom damp due to blockage of gutter.**
The committee saw mould and evidence of damp in the corner section of the rear bedroom above the dado rail.
- (c) **Bottom toilet damp due to burst pipe.**
The tenant advised the committee that he had repaired the leak to the bath, which had caused the leak into the downstairs toilet below. The committee saw that the walls and ceiling were dry but a section of plaster board in the ceiling was missing.
- (d) **Water leak in upstairs front bedroom.**

The committee saw evidence of dampness in the corner of the room, near the cornicing. There was evidence of water staining and the wall was very cold and the plaster was soft.

(e) Back garden full of hazardous building materials.

The committee saw loose bricks close to the rear boundary wall. They also saw a tarpaulin in the rear garden which was covering building rubble and slates.

(f) Large stone block at top of stairs very loose and a safety hazard.

The committee saw that the large sandstone coping stone at the top of the front stairs to the property was loose and a temporary wooden strapping had been jammed in place between the stone and the bay window to stop the coping stone from moving. The tenant advised the committee that the temporary repair had been carried out three months ago.

Following the inspection of the House the Private Rented Housing Committee held a hearing in the PRHP office in Glasgow. They heard from the Tenant. Neither the landlord nor their agents attended. The tenant submitted as follows:-

- There are smoke alarms in the property on both the ground and upper floors.
- Following the collapse of the lounge ceiling the landlord has not carried out any repairs to the lounge and the tenant is concerned in case a further section of the ceiling may collapse.
- The rear bedroom is damp and the tenant cannot use the room.
- The tenant advised that the landlord had carried out a temporary external repair to the roof as was evidenced by a blue tarpaulin located at the common skew between the chimney stack and the roof ridge. However this repair had not remedied the leak and there is still water ingress into the front bedroom.
- The tenant denied the landlords' agent's suggestion that his children had spread the bricks around the rear garden.

Summary of the issues

8. The issues to be determined are:-

- (a) Whether the damp in the upstairs rear bedroom, the alleged damp in the bottom toilet and the water leak in the upstairs front bedroom rendered the House not wind and water tight or in other respects not reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006.
- (b) Whether plasterwork in the lounge ceiling, the building materials in the rear garden and the coping stone at the front entrance stairs of the property are in a reasonable state of repair and proper working order as required by section 13(1)(b) of The Housing (Scotland) Act 2006.

Findings of fact

9. The Committee finds the following facts to be established:-

- The tenancy is a short assured tenancy.
- The tenant is in occupation of the property.
- The plasterwork to sitting room ceiling is defective and not in a reasonable state of repair.
- There is evidence of damp in the upstairs rear bedroom and the room was not watertight.
- There is evidence of water ingress and damp in the upstairs front bedroom and the room was not watertight.
- The leak in the downstairs toilet had been repaired and therefore the room was watertight.
- There are loose bricks and building materials in the rear garden and therefore it is not in a reasonable state of repair.

- The coping stone at the front steps of the property is loose. The temporary wooden strapping presently prevents the coping stone from falling over. However it would be possible to dislodge the temporary wooden strapping which could result in the coping stone being dislodged and falling over. Therefore the coping stone is not in a reasonable state of repair.

Decision

10. The Committee accordingly determined that the Landlord had failed to comply with the duties imposed by Sections 14 (1)(a) and 14(1)(b) of the Act.
11. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
12. The decision of the Committee was unanimous.

Right of Appeal

13. 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

14. 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 **J Taylor** Date 19th November 2008
Chairperson