



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/16/0030

Re : Property at 41 Albert Street Edinburgh EH7 5LN ("the Property")

Title No: MID 56296

The Parties:-

Ms Huma Malik 5 Keppock Crescent Prestonpans EH32 9FN ("the Landlord")

Gary Warren 41 Albert Street Edinburgh EH7 5LN ("the Tenant")

### NOTICE TO Ms Huma Malik ("the Landlord")

Whereas in terms of their decision dated 23<sup>rd</sup> May 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 structure and exterior of the house are in a reasonable state of repair and in proper working order (section 13(1)(b) of the Act)
- (b) Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order (section 13(1)(d) of the Act)

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 overhaul the windows in the property and in particular to repair or replace the sash cords to ensure the windows open and close and to fit security locks on the windows.
- (b) To repair or replace the cooker in the property and to provide and up to date electrical safety certificate.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 12 weeks 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 are executed by Anne McCamley, Chairman PRHP at Edinburgh on the 23<sup>rd</sup> day of May Two Thousand and Sixteen in the presence of Murdoch McCamley, retired Chartered Accountant, 5b Wester Coates Terrace Edinburgh

**M McCamley**

(witness)

**A McCamley** (Chairman)



**Private Rented Housing Committee**

**Housing (Scotland) Act 2006**

**Determination under section 24 (1)**

**Property: 41 Albert Street Edinburgh EH7 5LN**

**Title Number: MID 56296**

**Landlord: Ms Huma Malik, 5 Keppock Crescent,  
Prestonpans, EH32 9FN**

**Tenant: Mr Gary Warren, 41 Albert Street, Edinburgh  
EH7 5LN**

**Committee: Mrs A. McCamley (Chairman)  
Mrs S. Napier (Surveyor)**

**Inspection and Hearing: 23<sup>rd</sup> May 2016**

**Ref: PRHP/RP/16/0030**

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#### DECISION:

The committee, having made such enquiry as it sees fit for the purpose of determining whether the landlord has complied with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 in relation to the property concerned, and having taken account of the whole oral and written evidence led by both the tenant and the landlord, determines that the landlord has failed to comply with the duty imposed by section 14(1)(b) of the Act.

#### BACKGROUND:

1. By application received 26/1/16 the tenant applied to the Private Rented Housing Panel for a determination as to whether the landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.
2. The application by the tenant stated he considers the landlord has failed to comply with the duty to ensure the property meets the repairing standard and he brought forward the following alleged breaches:-
  - a) The windows do not open and will not stay open
  - b) The drains are blocked and backing up
  - c) The electrical installations are unsafe and the cooker cannot be used
  - d) There is water ingress at the front (storm) door
  - e) There are holes in the exterior walls



- f) There is a hole in floor leading to the cellar
- g) The property is damp and expensive to heat
- 3. The Private Rented Housing Panel served a Notice of Referral dated 11/4/16 on both the landlord and the tenant.
- 4. On 23/5/16 a committee inspected the property. Both the landlord and the tenant were in attendance. The landlord was supported by her business advisor Mr Geddes.
- 5. Following on from the inspection the committee held a Hearing at George House, George Street, Edinburgh. Both parties attended the hearing and gave evidence. The landlord was again supported by Mr Geddes.
- 6. The tenant submitted the windows did not open and close properly. He stated that they could not be held to be in a reasonable state of repair and in working order. The landlord agreed the sash cords were broken and that the windows did not open/close properly. She submitted that when the tenant raised the issue with her he had wanted nothing less than double glazing and had stated he would not be content with a repair.
- 7. The tenant further submitted the cooker did not work and other electrical installations are unsafe. He concentrated his complaint on the cooker which he says is so unsafe he does not use it. He conceded the landlord had sent someone to fix the cooker but he remains unhappy because red lights flash when the cooker is switched on and he believes there are live electrical cables at the top of the cooker which may be dangerous. The landlord told us that to the best of her knowledge the cooker had been repaired.



8. The tenant had complained of drainage issues in his application and addressed the committee on those matters at the hearing. He explained his toilet had blocked in the past and, sometimes, but always early in the morning, the kitchen sink partially filled with water coming up the plughole. The water did not appear every day but there was always a noise from the sink in the early morning. In response the landlord noted that although the property had not been lived in for a few weeks, when inspected today, the sink had been clear and clean, there was no evidence of dirty water staining the sink on a regular basis. The committee's surveyor member had flushed the toilet and there did not appear to be any problem with water drainage.
  9. Holes in the exterior of the property and in the floor leading to a cellar were complained of in the tenant's application. The tenant conceded that a gap, which was beneath the sink and which may have led to a cellar, had been covered over. During the inspection he moved a kitchen unit and showed 2 gaps in the plasterwork of the wall behind. The landlord commented that those holes were not out to the exterior of the property.
  10. The tenant complained of slight water ingress between the storm door and the front door of the property when the weather is bad. The landlord had no particular comment to make on this subject. The tenant conceded the level of ingress was small.
  11. The property is heated by dimplex style radiators. The tenant submitted they were expensive to use and as a result the property was cold but conceded they are in working order. He also
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stated the property suffered from dampness. The landlord simply stated the radiators were fit for purpose and there was no evidence of dampness.

#### COMMITTEE FINDINGS:

12. Having inspected the property and taken account of the oral and written evidence the committee finds the following to be established:
  - a) The windows cannot be opened and closed. The sash cords are either broken or have been removed. The windows are not in a reasonable state of repair and are not in proper working order. We find the landlord has failed to meet the repairing standard set out in section 13(1)(b) of the Act.
  - b) The cooker does not appear to work, cooker knobs have fallen off and wiring is exposed around the top of the cooker area. In the interests of safety our surveyor member declined to test it until further electrical checks could be carried out. On balance of probability we do not believe this appliance provided by the landlord under the tenancy is in a reasonable state of repair or in proper working order. We find the landlord has failed to meet the repairing standard set out in section 13(1)(d) of the Act.
  - c) The committee carefully considered the drainage issue raised by the tenant however after inspecting the property, having flushed the w.c. and examined the kitchen sink, we are satisfied the



drainage system is in a reasonable state of repair and in proper working order.

- d) The tenant conceded any hole in the floor leading to the cellar had been repaired. The small gaps in the plasterwork behind the kitchen units do not lead the committee to conclude that the structure of the house is not in a reasonable state of repair.
- e) The water ingress under the storm door is minimal. On inspection, the committee found the storm door to be strong sturdy and in a reasonable state of repair.
- f) The committee did not find evidence of dampness in the property. The property has working heating system adequate for its size. The tenant may have found the property to be cold over the winter however he told us he only had the heating on for an hour a day which may not have been sufficient for his needs but this does not fall within a landlords duties in terms of the repairing standard.

## DECISION

The committee determines that the landlord has failed to comply with the duty imposed by section 14 of the Act and makes a Repairing Standard Enforcement Notice as required by section 24(1) of the Act.

A landlord or tenant aggrieved by the decision of the committee may apply 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 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 Order will be treated as having effect from the day on which the appeal is abandoned or so determined.

**A McCamley** (Chairman of the Committee)  
23rd May 2016.



**PRHP      Reference PRHP/RP/16/0030**

**Property – 41 ALBERT STREET, EDINBURGH EH7 5LN**

**PHOTOGRAPHS OF INSPECTION 23 MAY 2016**

**Windows – broken sash cords on 4/5 windows. None open correctly**



**Kitchen sink – drain running clear, and gap below sink infilled**



**Electrical installation – loose wiring above kitchen units**



**Electrical installation – cooker wiring to be checked**



**Cooker – poor condition**



**Front door to porch – gap below door allowing storm water to enter**



### **Holes under kitchen worktop, behind fridge**



### **Electric panel radiators in living room and bedroom (2 No)**



Susan Napier BSocSc, FRICS  
Surveyor Member PRHP  
23 May 2016