

Determination by the Private Rented Housing Committee

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

ref: PRHP/EH/4/102/09

**Re: Property at 463 Queensferry Road, Edinburgh EH4 7ND
("the Property")**

The Parties:-

**Miss Patricia Bruce, c/o Smiths Gore, 12 Bernard Street, Edinburgh acting
under power of attorney for her parents Thomas and Isabella Bruce
("the Landlord")**

Callum Young, 463 Queensferry Road, Edinburgh ("the Tenant")

Decision

**The Committee, having made such enquiry as it sees fit for the purposes of
determining whether the Landlord has complied with the duty imposed by
Section 14(1)(b) in relation to the property concerned, and taking account
of the evidence led by both the Landlord and the Tenant at the Hearing
determines that the Landlord has failed to comply with the duty imposed by
Section 14(1)(b) of the Act.**

Background

- 1. By application dated 10th November 2009 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 the Tenant considered the Landlord had
failed to comply with the duty to ensure the house meets the repairing
standard and the Tenant brought forward the following alleged breaches:-**

(a) The garage roof and the house roof both leak. The guttering is leaking. The soil pipe allows waste water to leak therefrom. The back/patio door does not properly fit its frame and draughts come in under the door. The window in the kitchen has been painted shut and accordingly the kitchen is not properly ventilated

(b) The fuse box is unsafe.

(c) The central heating timer does not work.

(d) The shower unit suffers an intermittent fault which leads to a lack of power and heat in the water supply.

3. The Private Rented Housing Committee served Notice of Referral dated the 7th January 2010 under and in terms of Schedule 2, Paragraph 1 of the Act on both the Landlord and the Tenant.
4. The Private Rented Housing Committee inspected the property on the morning of the 24th February 2010. Both the Tenant and the Landlord were in attendance. The Tenant was supported by Lindsay Soutar of Letwise and his mother Mrs. Young. The Landlord was supported by her Agent, Mr. MacAllister of Smiths Gore and by Mr. David Bruce.
5. Following the inspection of the property the Private Rented Housing Committee held a Hearing at Leith Community Centre and heard from both the Tenant and the Landlord.

6. The Tenant submitted the complaints had been notified to the Landlord who had either failed or been slow to respond. The Landlord has effected some repairs but the matters as detailed above remain outstanding and show no sign of resolution. The leaks in the roof in both the house and the garage are ongoing. Both the attic and garage space is currently used for storage and stored items may be affected by water damage. The gutter joints are dripping at either side of the front door and also at the side of the house. Ice forms on the wet patches left by the leaks at either side of the door and this causes hazard in gaining access to and egress from the house. There is waste water coming from the soil pipe at the rear of the property. This is particularly unpleasant in the summer. There has been a temporary and ineffective repair with some sort of wet putty which is not setting and waste water continues to emerge from the pipe. There is a gap at the bottom of the back/patio door and because the bar at the bottom of the door is ill fitting draughts come into the back room. The kitchen window has been painted shut and is "fixed". There is no extractor fan in the kitchen. The window needs to be freed up to allow proper ventilation in the kitchen. The Tenant has been advised by two electricians that the fuse box is hazardous. The shower has developed an intermittent fault whereby the water, power and heat is unreliable.

7. Mr. MacAllister from Smiths Gore spoke on behalf of the Landlord. It was explained that the Landlord was anxious to repair any necessary work however was unable to do so if the Tenant withheld rent and refused access.

A builder was sent to the property on the 30th November 2009 but no work has been carried out as yet. The builder had been asked to look at the roof, soil pipe, the back/patio door and the kitchen window. As regards the shower the Landlord explained that the shower was a new installation and that when it had been fitted it was working perfectly well. The Landlord emphasised it had

been acknowledged that any fault was intermittent. An electrical safety certificate was produced and on the basis of that certificate the Landlord was satisfied the fuse box met current standards.

Findings of Fact

8. Having inspected the property, taken account of the oral and written evidence and thereafter being guided by the Committee's professional Surveyor Member, the Committee finds the following facts to be established:-

(a) During the course of our inspection we saw evidence of dampness in the garage roof and the house roof. We are not satisfied the dampness in the house is historic in nature and the wooden lintels above the garage door are currently damp. We saw evidence of corroded joints in the guttering and we are satisfied on balance that the guttering leaks. The bottom bar of the back/patio door is not properly fixed and it is self evident that in bad weather draughts will penetrate into the back room. It is also self evident that the window in the kitchen has been painted over and does not open. The soil pipe exhibits poor repair and on balance we are satisfied it is an ineffective repair. Accordingly we find the Landlord is in breach of the repairing standard Section 13(1)(b) in so far as we are not satisfied that the structure and exterior of the house are in a reasonable state of repair and in proper working order.

(b) As an electrical safety certificate was produced we are satisfied that the fuse box does not present an electrical hazard of any kind. The central heating timer does not work. Mr. Young explained the efforts he had made to work the clock but all to no avail. Accordingly we are satisfied there is a breach of Section 13(1)(c) in so far as the installation in the house for the supply of heating is not in proper working order.

(c) We accept the shower unit is currently in a reasonable state of repair and in proper working order. Any fault in the shower appears to be of an

intermittent nature and there was no evidence of any fault on inspection today.

Decision

9. The Committee accordingly determines that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.
10. The Committee makes a Repairing Standard Enforcement Order as required by Section 24(1).
11. The decision of the Committee is unanimous.

At the close of the Hearing the Tenant announced a front door key had gone missing during the course of the Committee's inspection.

Right of Appeal

13. **A Landlord or Tenant aggrieved by the decision of the Private Rented Housing Committee may apply 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.

A McCamley

Chairman PRHO

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

ref: PRHP/EH/4/102/09

**Re: Property at 463 Queensferry Road, Edinburgh EH4 7ND
("the Property")**

Sasine Description: All and Whole that dwellinghouse and garden ground pertaining thereto known as and forming number Four Hundred and Sixty-three Queensferry Road, Edinburgh being the subjects more particularly described in Disposition to Elizabeth Porteous Campbell Thomson or Black recorded in the Division of the General Register of Sasines for the County of Edinburgh on the Twenty-third day of July Nineteen Hundred and Thirty-five.

The Parties:-

Miss Patricia Bruce, c/o Smith Gore, 12 Bernard Street, Edinburgh acting under power of attorney for her parents Thomas and Isabella Bruce ("the Landlord")

Callum Young, 463 Queensferry Road, Edinburgh ("the Tenant")

NOTICE TO Miss Patricia Bruce, c/o Smith Gore, 12 Bernard Street, Edinburgh acting under power of attorney for her parents Thomas and Isabella Bruce ("the Landlord")

Whereas in terms of their decision dated 24th February 2010, 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 and in particular that the landlord has failed to ensure:-

(1) 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 said Act.

(2) The installation 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 working order - Section 13(1)(c) of the said Act.

the Private Rented Housing Committee now requires the landlord to carry out such works as are necessary for the purposes of ensuring the house meets the repairing standard and that any damage caused by the carrying out of any works in terms of this order is made good.

In particular the Private Rented Housing Committee requires the Landlord:-

- To carry out such works as are necessary to repair the roof of the house and garage to ensure there is no water ingress.
- To repair the guttering and to seal joints thereby preventing any further leaks.
To trim the bottom of the back/ patio door and to fit a bar thereto.
- To free up the kitchen window to ensure it opens and closes and provides ventilation for the kitchen.
- To repair the soil pipe at the rear of the property.
- To carry out such works as are necessary to ensure the central heating timer is operating/working in accordance with the manufacturers specification.

The Private Rented Housing Committee order that the work specified in this Order must be carried out and completed within a period of **ten 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.

In witness whereof these presents typewritten on this and the two preceding pages are executed by Anne McCamley, Solicitor, Chairman of the Private Rented Housing Committee at Edinburgh on the Twenty-fourth day of February, Two Thousand and Ten before Murdoch McCamley, Chartered Accountant, Osborne House, Osborne Terrace, Edinburgh.

M McCamley

(witness)

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A McCamley

Chairman PRHP