



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0095

Re: Property at 441 Calder Road, Edinburgh EH11 4AN ("the Property")

Title No: MID114589

The Parties:-

MARY SLIGHT, residing at 441 Calder Road, Edinburgh EH11 4AN ("the Tenant")

FIRST RENTED HOUSING GROUP LIMITED, a Company incorporated under the Companies Acts and having its registered office at Valley View, Glebe Estate, Studland, Dorset BH19 3AS ("the Landlord")

### NOTICE TO FIRST RENTED HOUSING GROUP LIMITED ("the Landlord")

Whereas in terms of their decision of even date, 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 the property meets the Repairing Standard in respect of:-

**Section 13(1)(a):** the house is wind and watertight and in all other respects reasonably fit for human habitation.

**Section 13(1)(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.

The Private Rented Housing Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the Property 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:

1. To instruct a reputable contractor to inspect, survey and if necessary repair the chimney stack and pots on the north elevation of the roof of the property.
2. To instruct a reputable contractor to inspect, survey and thereafter complete renovation and overhaul of the gutters and rhones of the property so as to ensure that they are in a reasonable state of repair, in property working order and do not leak.
3. To replace four windows in the property being the east most window in the living room, the window in the west most bedroom, the window in the bathroom and the window in the scullery.

4. To instruct a reputable contractor to inspect, survey and if possible repair and overhaul the remainder of the windows to include ventilation so as to ensure that they are in good working order and wind and watertight; and if repair work is not to be possible nor economical to replace the remainder of the windows in the property.
5. To instruct a reputable contractor to inspect, survey and to improve the ventilation in the property to eradicate the excessive condensation, such steps to include the possible installation of further electrical extractor fans in the kitchen and bathroom, and to repair, replace or create wall vents.

The Private Rented Housing Committee requires that the works specified in this Order must be carried out and completed within 8 weeks 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 that 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.

**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 typewritten on this and the preceding page(s) are executed by Richard Mill, Solicitor, chairperson of the Private Rented Housing Committee at Edinburgh on the Seventeenth day of June Two Thousand and Fifteen before this witness:-

M. MURRAY

witness

R. MILL

\_\_\_\_\_  
chairman

Margaret Johnstone Murray  
21 Stafford Street  
Edinburgh  
EH3 7BJ

Legal Secretary

Ref PRHP/RP/15/0095

**Private Rented Housing Committee**

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

**Re: 441 Calder Road, Edinburgh EH11 4AN (“the Property”)**

**Title Number: MID114589**

**The Parties:-**

**MARY SLIGHT, residing at 441 Calder Road, Edinburgh EH11 4AN (“the Tenant”)**

**FIRST RENTED HOUSING GROUP LIMITED, a Company incorporated under the Companies Acts and having its registered office at Valley View, Glebe Estate, Studland, Dorset BH19 3AS (“the Landlord”)**

**Committee members:-**

**Richard Mill (Chairman) and David Godfrey (Surveyor Member)**

*Decision*

The committee, having made enquiries 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 (“the Act”) in relation to the Property, determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard.

*Background*

1. By application dated 10 March 2015, and received on 13 March 2015, 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 Act in respect of the Property.

2. In the application the Tenant stated that the Landlord had failed to comply with the duty to ensure that the house meets the Repairing Standard in a number of respects. The relevant aspects of the Repairing Standard put at issue are those contained within Sections 13(1)(a) and (b) which are in the following terms:-
  - whether the house is wind and watertight and in all other respects reasonably fit for human habitation.
  - whether 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. Notices of Referral were issued to parties on 29 April 2015.

#### *Inspection*

4. The committee inspected the Property on 12 June 2015 at 10.00 am. The Tenant's daughter, who resides in the property, showed the committee around. The Tenant had left home early upon the committee's arrival to ensure her timeous arrival at the Hearing.

#### *Hearing*

5. Following the inspection of the Property the committee convened a Hearing at George House, Room D10, 126 George Street, Edinburgh EH2 4HH. The Tenant appeared personally and gave evidence to support her Application. No one else was present.

#### *Engagement of the Landlord*

6. Neither the Landlord nor their agents, Messrs Murray & Currie, participated in the process. No representations were received by or on behalf of the Landlord. The Landlord was not present nor represented at the Inspection nor the Hearing.

#### *Summary of the issues*

- 7.1 The issues to be determined by the committee are whether or not the Property meets the Repairing Standard to the extent put at issue within the application, as at the date of the Hearing.
- 7.2. The matters complained of by the Tenant were:-
  - all windows in the property are in a poor state of repair allowing wind through the gaps in the window frames, some of the panes were misted due to condensation and one of the windows does not open.
  - the gutters are in a poor state of repair causing rainwater to penetrate the external walls.
  - dampness and mould growth within the property due to the penetration of rainwater and/or excessive condensation.

- the structure of the chimney stack and pots is insecure and crumbling.

*Findings in Fact*

8. The committee makes the following findings in fact:

- 8.1 The title to the subjects known as 441 Calder Road, Edinburgh EH11 4AN is held by the Landlord. Their interest is registered in the Land Register of Scotland under title number MID114589 on 24 March 2008.
- 8.2 The Property which is the subject of this application is a two bed roomed upper floor flat.
- 8.3 The Tenant has resided in the property for some 21 years with her daughter. She maintains the property to a high standard.
- 8.4 The parties entered into an Assured Tenancy Agreement in terms of the Housing (Scotland) Act 1988 on 27 January 2010.
- 8.5 In relation to the matters complained of in the application, the committee's inspection revealed:-
  - i. Inspection of the chimney from ground level confirmed that a piece of masonry from the coping on top of the chimney stack has broken free and that one of the two chimneypots is at an angle and may be loose.
  - ii. The gutters and downpipes around the property are in a generally poor state of repair and decoration. Rust is evident around the joints and evidence of water leaks are detectable around the joints and at ground level where there is discolouration in the brickwork.
  - iii. There is evidence of mould at the two corners of the flat on the west gable end; in the kitchen and scullery area to the north, and to the west most bedroom to the south.
  - iv. There is little ventilation within the property. There are three chimneys, all of which have been blocked off with no venting. There are two wall vents, one in each of the bedrooms to the south of the property. Both vents are broken and are inoperable. None of the windows have vents. The bathroom in which there is an electric shower over the bath has no mechanical or electrical ventilation. The kitchen has no mechanical ventilation though, some years ago, due to ventilation problems an electrical extractor fan was inserted within the scullery which is adjacent

to the kitchen. The location of this existing extractor fan does little or nothing to assist ventilation in the property.

- v. There are three double glazed windowpanes in the property in which the glazed seals are deficient which has caused internal misting between the panes of glass. These panes are in the west most bedroom, the bathroom and the scullery.
  - vi. The seals around the window frames throughout the property are in a poor state of repair. Remedial repairs have been undertaken in a rather rudimentary fashion. This has not resolved the problem. A number of the seals are not windproof.
  - vii. One of the two living room windows, the one to the east most side is in a particularly bad state of repair. The seals, despite previous repairs, are in places, non-existent.
- 8.6 There are obvious signs of excessive moisture content being retained within the property. This is through no fault at all of the Tenant. Despite the property having gas installation the property has electric storage heaters. This together with the lack of ventilation as found at the time of the inspection is undoubtedly causing long-lasting condensation and excessive water retention.
- 8.7 The Tenant who has resided within the property for a period of some 21 years has taken every step possible to minimise the effects of the disrepair identified. She is keeping the property to an above average standard.

*Reasons for the Decision*

- 9. The committee determined the Application having regard to the bundle of papers (which had been made available in advance to parties), their inspection, together with the evidence of the Tenant given at the Hearing.
- 10. The committee was only able to formally consider the Tenant's complaints which formed part of the intimated Application. The committee was also under an obligation to consider the Tenant's complaints as at the time of the Hearing on 12 June 2015.
- 11. The committee was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the reference.
- 12. The committee were impressed with the Tenant and found her credible and reliable.

13. The Tenant gave evidence at the Hearing to the effect that a Glazing Company had surveyed the windows within the property in or about February 2014. The Glazing Company had come to the conclusion and revealed to the Tenant that the windows at that time were in such a state of disrepair that only option to remedy the problems was to renew the windows. It was understood that a quotation was obtained and sent to the Landlord for their approval but no subsequent replacement of the windows was undertaken. Instead the Letting Agents Repair Team attended and carried out the rudimentary sealing which could not be considered to be a long-term measure. Indeed, the Tenant was advised at the time that her best option was to purchase a pair of full length heavyweight curtains. The committee does not find that suggestion to be an appropriate solution to the defective windows in the property.
14. The committee were disappointed at the lack of engagement on the part of the Landlord or their agents. The Tenant gave clear evidence to the effect that over the course of the last 2 years or thereby she has complained to the Tenant's managing agents, Messrs Murray & Currie, regarding the ventilation problems and condition of the windows. Despite assurances that work would be undertaken and despite the glazing company having been instructed to review matters in February 2014, little or no work has been effected.
15. The condition of the property as revealed at the time of the committee's inspection is the principal basis upon which the committee make their findings in fact. As a consequence, the committee concludes and establishes that the Landlord has failed to comply with their duties imposed under Section 14(1)(b) of the Act. The property is not wind and watertight and provision of ventilation is insufficient. This is a breach of Section 13(1)(a) of the Act. The gutterings and downpipes are not in a reasonable state of repair. There are prima facie concerns regarding the structure of the chimney. This is a breach of Section 13(b) of the Act.

*Decision*

16. The Property does not meet the Repairing Standard. The Landlord has not complied with their duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is necessary. A Repairing Standard Enforcement Order is issued contemporaneously herewith.

*Right of Appeal*

17. 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 of the Act*

18. Where such an appeal is made, the effect of the decision and of any order made, 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 date on which the appeal is abandoned or so determined.

R. MILL

Signed .....  
Chairman

..... Date 17 June 2015