



Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0138

Re: Property at 12 Portland Street, Aberdeen, AB11 6LL ("the Property") ("the Property")

Title No: ABN100736

The Parties:-

MAYFORD LIMITED a company incorporated under the Companies Acts (Company Number SC278244) and having its Registered Office at 52 York Street, Peterhead ("the Landlord")

MISS JACQUELINE FORBES formerly residing at 12 Portland Street, Aberdeen, AB11 6LL ("the Tenant")

NOTICE TO MAYFORD LIMITED ("the Landlord")

Whereas in terms of their decision dated 23 September 2015 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 is:-

- (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;

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 render the Property properly wind and watertight and free from any damp penetration

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 3 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 23 September 2015 before this witness:-

L JOHNSTON

E MILLER

___ witness

. Chairman

Lindsay Johnston
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/15/0138

Re: Property at 12 Portland Street, Aberdeen, AB11 6LL ("the Property")

The Parties:-

MISS JACQUELINE FORBES, formerly residing at 12 Portland Street, Aberdeen, AB11 6LL ("the Tenant")

MAYFORD LIMITED a company incorporated under the Companies Acts (Company Number SC278244) and having its Registered Office at 52 York Street, Peterhead ("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 Landlord 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 24 May 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 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.
3. By letter dated 16 June 2015 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 neither party made any material written representations to the Committee.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member; Mrs L Robertson, Housing Member; and Mr A Anderson, Surveyor Member) inspected the Property on the morning of 20 August 2015. The Tenant was not present having vacated the Property previously. Messrs Kenneth and Ronald Grugeon from the Landlord were present during the inspection.

7. Following the inspection of the Property, the Private Rented Housing Committee held a hearing at The Credo Centre, 14-20 John Street, Aberdeen. Messrs Grugeon from the Landlord were present and represented themselves. The Tenant was neither present nor represented.
8. The Tenant's application alleged that they had had problems with the Landlord in getting them to address water penetration into the flat. Water was penetrating into the alcove to the left of the chimney breast in the lounge and also into the kitchen. Whilst the Tenant accepted that the Landlord had made some efforts to address the issues, she was not satisfied that the problems had been addressed and resolved.
9. The Landlord submitted that they were aware that there had been water penetrating from the roof of the tenement in to the Property. They had had works carried out and, as far as they were aware, they had addressed the issues. They were happy to take the advice of the Committee as to whether or not this had been successful. They accepted that they could have moved matters forward more quickly in relation to having roof repair works carried out, although, in their defence they submitted that the complaint had occurred over winter when it was difficult to get tradesmen to access a tenement roof.

Summary of the issues

10. The issue to be determined is:-

(1) Whether the Property is properly wind and watertight and free from any damp.

Findings of fact

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

- The Property was not wind and watertight.
- There was damp penetrating into the lounge.
- The kitchen was free from damp.

Reasons for the decision

12. The Property is the westmost top floor flat of a tenement of six flats at 12-14 Portland Street, Aberdeen. The walls are of solid granite and the roof is pitched and slated. The tenement was constructed around 1900. It was dry during the inspection, which was preceded by a mixture of mixed dry and warm and showery weather. The flat was occupied, having been let to new tenants (who were not present at the inspection).

The Committee based its decision primarily on the evidence obtained during the inspection. The Tenant had reported damp ingress to the lounge and kitchen and the inspection was confined to these areas. The walls were lined internally with lath and plaster, with some areas of plasterboard within the kitchen boiler cupboard.

The inspection revealed that the walls of the lounge had been redecorated since the Tenant had vacated. However, there was visible staining to the left alcove and to the plaster above the skirting board to the right of the fireplace. When tested for damp, high readings (red colour, above 90%) were observed to these stained areas. The kitchen was inspected, but no obvious staining was found to walls or ceilings.

Externally, the roof covering and chimneys were inspected from ground level, using binoculars. They were solid stone, multiple flue chimneystacks for each gable and to the front elevation. There were vented caps to each of the chimneycams to the west chimney. The visible area of the roof skews (masonry at edge of roof) and slating showed no obvious defects. The visible pointing to the west chimney appeared in reasonable

condition, but vegetation growth was noted in the area around the chimneys to the rear of the stack.

Whilst the Committee accepted that the Landlord had carried out works to the roof of the Property, the Committee was satisfied that these works had been unsuccessful. It appeared that there was a high probability that there was water penetrating in through the roof, wallhead or chimney and this was causing the damp readings within the lounge. The Committee was satisfied that the Landlord ought to carry out further works to try and ascertain the source of the water penetration and to rectify this.

The Committee was satisfied that there was no damp ingress into the kitchen. No evidence could be found of water penetration and no adverse damp meter reading were showing.

The Committee considered how long the Landlord would require to carry out the works. Given the nature of the works required, it could take some time for the source of the water penetration to be identified, rectified and for the damp to be eradicated. Accordingly the Committee was satisfied that it would be appropriate to give a period of 3 months to the Landlord.

By way of an observation, the Committee noted that whilst there was a mains power smoke alarm in the hallway of the flat this no longer complied with the relevant regulations. Accordingly a hardwired interlinked smoke alarm would be required in the lounge of the flat and interlinked heat detector in the kitchen. Whilst not a formal part of this Decision or the Repairing Standard Enforcement Order, the Committee would expect the Landlord to address this point.

Attached to this decision is a schedule of photographs taken during the inspection.

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..... 23/7/15



Schedule of Photographs
12 Portland Street, Aberdeen AB11 6LL
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Date: 20/08/2015



Figure 1Front Elevation



Figure 2 Front view West Chimney



Figure 3 Rear Elevation



Figure 4 Rear view West Chimney - vegetation visible



Figure 5 Lounge Overview



Figure 6 Lounge wall left alcove visible staining/high damp reading



Figure 7 Lounge wall right hand side fireplace visible staining/high damp reading