



REPAIRING STANDARD ENFORCEMENT ORDER
Ordered by the Private Rented Housing Committee

RE: Property at at 2F3, 19 Yeaman Place, Edinburgh EH11 1BS more particularly described in Land Certificate Title number MID52669 (hereinafter referred to as “the House”)

The Parties:

Brian Fraser, residing formerly at the House (hereinafter referred to as “the Tenant”)

Gary John Miller, c/o Orchard & Shipman, Third Floor, Sugar Bond House, 2 Anderson Place, Bonnington Road, Edinburgh EH6 5NP (hereinafter referred to as “the Landlord”)

PRHP REFERENCE PRHP/RP/16/0100

NOTICE TO GARY JOHN MILLER

WHEREAS in terms of their decision dated 17 July 2016 the 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 that the House meets the repairing standard in that:

“(c) the installations 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 in proper working order”

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

To repair or replace the shower such that there is available a shower in good working order capable of producing water of sufficient temperature and pressure as to permit showering.

The Committee orders that the works specified in this Order must be carried out and completed within 90 days 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 the 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.

IN WITNESS WHEREOF these presents typewritten on this and the preceding page are signed by John Miller McHugh, Chairperson of the Private Rented Housing Committee at Edinburgh on the Seventeenth day of July Two Thousand and Sixteen in the presence of the undernoted witness:

John McHugh

Chairperson

Gillian McHugh

Witness

GILLIAN MCHUGH

Witness Address

65 HAYMARKET TERRACE
EDINBURGH



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**

In connection with

**Property at at 2F3, 19 Yeaman Place, Edinburgh EH11 1BS (hereinafter
referred to as “the House”)**

**Brian Fraser, residing formerly at the House (hereinafter referred to as “the
Tenant”)**

**Gary John Miller, c/o Orchard & Shipman, Third Floor, Sugar Bond House, 2
Anderson Place, Bonnington Road, Edinburgh EH6 5NP (hereinafter referred to
as “the Landlord”)**

PRHP REFERENCE PRHP/RP/16/0100

DECISION

The Committee having made such enquiries as are fit 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 (hereinafter “the Act”) in relation to the House, and taking account of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application received on 15 March 2016 (hereinafter referred to as the “Application”) the Tenant applied to the Private Rented Housing Panel (hereinafter “the PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and,

in particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

“(c) the installations 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 in proper working order”

The Tenant complained of a number of defects in the operation of the shower.

By letter of 24 May 2016, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

The Committee comprised the following members:

John McHugh, Chairperson
Charles Reid Thomas, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

On 30 June 2016, the Committee, having been advised that the Tenant had vacated the House, resolved to continue with the Application and issued a Minute of Continuation.

The Committee inspected the House on 5 July 2016. The Tenant was neither present nor represented. The Landlord was represented by Craig Lane of the Landlord’s letting agent.

The Landlord’s agent explained that the House was in the course of refurbishment. The shower was the same one as had been in place when the Tenant had been in occupation. He switched on a pump which had been installed by the Landlord during the tenancy to address the problem but it did not seem to have a significant effect. The Landlord’s agent advised that a number of visits by plumbers had taken place and that the Landlord may now be considering further works to include the installation of an electric shower.

As the Tenant was not entitled to take part in the hearing and as the Landlord’s agent had no information or submissions to make beyond those made at the inspection, no further formal hearing was conducted.

Submissions at the Hearing

None.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14 (1)(b).

Findings in Fact

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

The Landlord and the Tenant have entered into a written Tenancy Agreement dated 1 May 2015.

A tenancy exists between the Landlord and Tenant.

Gary John Miller, 5 Silverknowes View, Edinburgh is the registered owner of the House.

The Tenant took possession of the House from 1 May 2015 and remained in occupation until around June 2016.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defects in the House which are now the subject of the Application by letter dated 18 March 2016 addressed to the Landlord's letting agent.

The inspection on 5 July 2016 revealed:

The House is in the course of a general refurbishment.

The shower remains in place.

A pump is present in the living room cupboard. It appears to pump water to the shower.

The shower was found to produce hot water. The water pressure remained sufficient for showering for only around one minute at which point the water pressure dropped significantly.

A schedule of photographs taken at the inspection is appended to this Determination.

Reasons for the Decision

The shower is not producing sufficient water pressure to allow showering and in its current condition does not meet the repairing standard.

Repairing Standard Enforcement Order

Having decided to make a Repairing Standard Enforcement Order, the Committee considered the length of time which should be provided for compliance. The Committee elected to impose a period of 90 days having regard to the fact that the property is unoccupied and in the course of refurbishment.

The Landlord is reminded that he may apply for additional time if the works take longer than anticipated or that he may request a re-inspection if works are completed quickly and re-letting is intended. **The House may not be re-let while the RSEO remains in place as that would constitute an offence.**

Decision

The Committee, considering the terms of section 13(3) of the Act, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(2) of the Act.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the 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.

John McHugh

John M McHugh
Chairperson

Date: 17 July 2016

Photographic Record of: 19 2F3 Yeaman Place, EH11 1BS
Inspection 5.7.2016



19 2F3 Yeaman Place



Pump fitted but pressure in shower is still poor. Flat undergoing complete renovation