



**A Repairing Standard Enforcement Order**  
**Ordered by the Private Rented Housing Committee**

prhp Ref: prhp/EH30/166/12

**Re : The residential joining house at 8 Edinburgh Road, South Queensferry, EH30 9HR ("the Property")**

**Land Register Number: WLN1679**

**The Parties:-**

**Mr Sam Baird, 8 Edinburgh Road, South Queensferry ("the Tenant")**

**Mrs E Sales, c/o Arden Property Management, 43 Morningside Road, Edinburgh ("the Landlord")**

**NOTICE TO**  
**Mrs E Sales, c/o Arden Property Management, 43 Morningside Road,**  
**Edinburgh**

Whereas in terms of their decision dated 1<sup>st</sup> February 2013, The Private Rented Housing Committee having 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 comply with the duty to ensure:- that the property is wind and water tight and in all other respects reasonably fit for human habitation and that 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 concerned meets the Repairing Standard and that any damage caused by the carrying out of any of the work in terms of this Order is made good.

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

1. Repair/replace the roof and rain water conductor system to ensure that the property is wind and water tight and in a proper state of repair.
2. Repair/replace any damaged plaster. Make good the living room and redecorate as required.

The Private Rented Housing Committee orders that the work specified in this Order should be carried out within a period of 12 weeks from the date of service of this notice.

**A landlord or a tenant aggrieved by this 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 variation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or

finally determined by confirming the decision, the variation will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page are executed by Judith V Lea, solicitor, Unit 3.5 The Granary Business Centre, Coal Road, Cupar, Fife, KY15 5YQ, chairperson of the Private Rented Housing Committee at Cupar on 1<sup>st</sup> February 2013 before this witness:-

**M Smith**

..... Witness

**J Lea**

..... Chairman

Maxine Smith  
Unit 3.5, The Granary Business Centre  
Coal Road  
Cupar  
Fife



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

prhp Ref: prhp/EH30/166/12

Re : The flat at 8 Edinburgh Road, South Queensferry, EH30 9HR ("the Property")

Land Register Number: WLN1679

The Parties:-

Mr Sam Baird, 8 Edinburgh Road, South Queensferry ("the Tenant")

Mrs E Sales, c/o Arden Property Management, 43 Morningside Road, Edinburgh ("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) of The Housing (Scotland) Act 2006 ("the Act") in relation to the property concerned, and taking account of the written and oral evidence received, unanimously determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act. The Committee therefore requires that the Landlord carries out such works as are necessary for ensuring that the property meets the Repairing Standard and that any damage caused by the carrying out of the work in pursuant of the Order is made good. The Committee issued a Repairing Standard Enforcement Order as annexed to this Statement of Reasons.

### Background

1. By application dated 13 September 2012 the Tenant applied to the Private Rented Housing Panel (the PRHP) for a determination of whether or not the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Act.
2. Following receipt of the Tenant's application, the President of the PRHP intimated that the application should be referred under Section 22 (1) of the Act to a Private Rented Housing Committee.

### The Application

3. In the application, the Tenant alleged that the Landlord had failed to comply with her duty to ensure that the property met the Repairing Standard as defined in the Act. It was submitted that the Landlord had failed to ensure that the property was wind and water tight and in all other respects reasonably fit for human habitation, and that 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.
4. In particular the Tenant submitted that repairs were required to the roof to stop water ingress causing damage to the wall and mould growth.

### The Evidence

5. The Committee had before it documents which included the Land Register documents, a copy of the application form, a copy of the tenancy agreement, various emails sent

between the Tenant and the Landlord, written submissions from the Tenant and written submissions from the Landlord.

### **The Inspection**

6. The Private Rented Housing Committee (comprising Mrs Judith Lea, Chairman and Legal Member, Christine Anderson, Housing Member and Donald Marshall, Surveyor Member) inspected the Property on 25 January 2013. The Tenant and his wife were present at the inspection. The Landlord was not present but was represented by her agents at the inspection.

### **The Hearing**

7. The hearing was arranged after the inspection at Leith Community Centre. The Tenant and his wife attended the hearing. The Landlord was not able to be present at the hearing but was represented by Catriona Waugh, Lindsey Strachan and Lewis McKenzie from Arden Property Management. The Tenant explained that when they entered into the tenancy in August 2011 they were aware that there had been a problem with dampness in the property but this was treated prior to them moving in. At this time it appeared that the problem with the roof had been sufficiently treated. However over a period of time patches of dampness started appearing again on the wall. At the end of 2011 people came to inspect the roof. The Tenant said that he had reported verbally to the Landlord prior to July 2012 that there was again a problem with damp on the living room wall. The first email with regard to the matter was sent in July 2012. The Landlord arranged for people to come and look at the roof in August and September 2012. There was then a mediation where it was not possible to reach agreement. The roofer that looked at the roof stated that every time it rains water would get in. The Tenant stated that he was concerned that the mould and dampness in the property were affecting his wife's health. The Landlord had phoned three weeks prior to the New Year stating that she was going to do the repair to the roof within two weeks but nothing had happened. The Tenant explained that they were presently having to live with an area of exposed damp wall now that the plaster had been taken off. He stated that they did not ask the Landlord to take off the plaster, they had just asked that it be checked that there was not a lot of mould under the plaster. This was done in about October 2012. In November 2012, the Landlord gave them a humidifier to try and help dry the wall out but it was not working because there was still a leak in the roof.
8. The Tenant stated that they wanted to live in a safe and sound property and were not interested in the money. The issue with regard to the other owners having to pay a share of the roof was not relevant to the Tenant and that he just wanted the roof and the wall to be rectified. The Tenant stated that he was happy with the suggestion in the Landlord's written submissions that the work be done within a period of 12 weeks but he was concerned that it would not happen within this period due to the difficulty of the owners of the various properties having to pay a share.
9. The Landlord's agents explained that the property had been inspected in March 2012 after the wall had been repainted, sealed and emulsioned and there was no evidence of water penetration at that time. The Landlord's agents stated that the plaster was taken off the wall because that was what the Landlord thought the Tenant wanted. The Landlord's agents confirmed that there was no dispute that at present the roof was not wind and water tight and four quotes had been obtained in connection with fixing the problem with the roof. The Landlord's agent stated that it was accepted that the whole roof required to be repaired at a cost of around £20,000. The Landlord's agents explained the difficulty with the owners of different properties in the block having shared responsibility for the roof and referred to the Landlord's submissions explaining that the Landlord had come up with a proposed solution. The work would not be done by any of the tradesmen who provided the four quotes. It would be done by tradesmen who were used by Brechin Inns as this is what the owners of the Anchor Inn wanted.
10. In response to a question from the surveyor member, the Landlord's agents confirmed that the whole of the front and back roof and chimney stack would require to be overhauled. The Landlord's agents also clarified that the wall would be repaired after the

roof had been fixed and it had dried out. At the end of the year the Landlord had considered patching the roof again but had decided against this.

### **Findings**

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

- (1) On 6 August 2011 the Landlord and the Tenant entered into a tenancy agreement in relation to the property.
- (2) The property is located on the third floor of a tenement block with a flat underneath and a pub on the ground floor.
- (3) The roof of the property is not in a reasonable state of repair and is not wind and water tight.
- (4) The living room wall is damaged and is not in a reasonable state of repair.
- (5) There is evidence of some dampness and/or condensation in the bedroom.

### **Reasons for the Decision**

12. It was clear from the inspection and the written and oral evidence submitted that the roof of the property is not wind and water tight and is not in a reasonable state of repair. It was also clear that there has been an ongoing problem with damp affecting the living room wall for a period of time. It was accepted by the Landlord's agents that the roof required a complete overhaul and that the damaged wall in the living room required to be repaired.
13. The Committee note the difficulties which have been faced by the Landlord in respect of the responsibility for roof repairs in terms of the title deeds. The Committee also noted that the Landlord had recently been taking steps to have this problem sorted out. The fact remains however that the Tenant has been living in a property which is not in a reasonable state of repair since at least July 2012.
14. It is probable that the damp problem is being caused by a leak to the roof but there may also be an issue with the rain water conductor system. The Committee accordingly found a breach of Section 13(1)(a) and (b) of the Repairing Standard and resolved to make an Order that the Landlord repair/replace the roof and rain water conductor system to ensure that the building is wind and water tight and in proper state of repair and that the Landlord thereafter repair/replace any damaged plaster, make good the living room wall and redecorate.
15. The Committee noted that the Landlord's expectation was that the work could be completed within the next 12 weeks. The Committee further noted that the Tenant considered this to be a reasonable timescale. In the circumstances the Committee ordered that the work should be done within 12 weeks of the date of the Order being intimated.

### **Decision**

16. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
17. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1).
18. The decision of the Committee was unanimous.

### **Right of Appeal**

19. **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**

20. 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.

Signed ..... **J Lea** ..... Date..... **1/2/13** .....  
Chairperson