



## **Repairing Standard Enforcement Order**

### **Ordered by the Private Rented Housing Committee**

**PRHP REFERENCE G41/20/09**

**Re : Property at Flat G/R, 10 Melville Street, Pollokshields, Glasgow G41 2LN, being the rightmost ground floor flat of the tenement at Ten Melville Street, aforesaid, forming part and portion of the area of ground extending to Six hundred and sixty six square yards and six square feet or thereby bounded on the south by the said Street, all as more particularly described in the Disposition by John Eaton and James Caithness Eaton in favour of Nevis Property Company Limited dated Sixteenth and Seventeenth May, and recorded in the Division of the General Register of Sasines for the County of Glasgow on Sixth July, both months of the year Nineteen hundred and forty five; Together with the heritable fixtures and fittings therein and thereon, free ish and entry therefrom and thereto, and the parts, privileges and pertinents effering thereto ("the house")**

#### **The Parties**

**York and District Investment Co. Ltd., of Pavillion House, Scarborough, North Yorkshire YO11 2JR and previously known as Nevis Property Company Limited, of Glasgow, the title to the house remaining in the name of the said Nevis Property Company Limited ("the Landlord")**

**Mr. Raymond Honeyman, residing at Flat G/R, 10 Melville Street, Pollokshields, Glasgow G41 2LN ("the Tenant")**

#### **NOTICE TO York and District Investment Co. Ltd. ("the Landlord")**

Whereas in terms of their decision dated 2 October 2009, 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 that the house meets the repairing standard in that:-

(1) 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 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 repair or replace the windows to ensure that they are in a reasonable state of repair and in proper working order.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 56 days 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 preceding page are signed by Aileen Margaret Devanny, Chairperson of the Private Rented Housing Committee, at Motherwell on Eighth day of October, Two Thousand and Nine in the presence of the undernoted witness:-

WITNESS... **A S Devanny**                      **A Devanny**

ALEXANDER SUTHERLAND DEVANNY

SOLICITOR

95 Stewarton Street, Wishaw



**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 Flat G/R, 10 Melville Street, Pollokshields, Glasgow G41 2LN  
(hereinafter referred to as "the house")**

**Mr. Raymond Honeyman, of Flat G/R, 10 Melville Street, Pollokshields,  
Glasgow G41 2LN ("the Tenant")**

**York and District Investment Co. Ltd., of Pavillion House, Scarborough,  
North Yorkshire YO11 2JR and previously known as Nevis Property.Co.  
Ltd. of Glasgow , the title to the house remaining in the name of the said  
Nevis Property.Co.Ltd.**

**( whose agent are J.A. McTaggart, 65 Bath Street, Glasgow G2 2DE  
("the Landlord")**

**Reference PRHP/G41/20/09**

**DECISION**

The Committee, having made such enquiries as is 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 presented and the written representations, determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act")

**Background**

1. By application dated 5 February 2009 and received on 4 March 2009 the Tenant applied to the Private Rented Housing Panel (hereinafter referred to as "PRHP") for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act.
2. The application by the Tenant 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 Section 13(1)(a) of the Act which states that " the house is

wind and watertight and in all other respects reasonably fit for human habitation". The Tenant's complaint related to defective windows in the house which were not windtight and generally were in poor repair. The Tenant submitted to PRHP copies of letters which he had sent to the Landlord's letting agents, J A McTaggart and to Ms. McNeice of J A McTaggart and Western Heritable, dated 5 February 2009 and 19 March 2009 notifying of the required repairs. Said letter of 19 March 2009 was sent by recorded delivery post. No tenancy agreement was submitted.

3. By letter dated 12 May 2009, PRHP gave intimation that the President of the PRHP had made a decision to refer the application under Section 23(1) of the Act to a Private Rented Housing Committee.

The Committee comprised the following members:

Mrs. Aileen Devanny, Legal Member  
Mr. Mike Links, Surveyor Member  
Mrs. Susan Brown, Housing Panel Member

4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2 Paragraph 1 of the Act upon the Landlord and the Tenant. Following service of the Notice of Referral the Tenant indicated that he wished to attend a hearing before the Committee. The Landlord's Letting Agents did not submit written representations although they did on or around 9 July 2009 contact the office of PRHP to confirm that they were aware of the application.

5. The Private Rented Housing Committee inspected the house on the morning of 2 October 2009. The Tenant, Mr. Raymond Honeyman, was present. No representative of the Landlord attended.

6. Following the said inspection the Private Rented Housing Committee held a hearing at the offices of PRHP at 140 West Campbell Street, Glasgow.

### **Submissions at the Hearing**

7. The Committee considered the written evidence submitted and heard evidence and representations from the Tenant, Mr. Raymond Honeyman. Neither a representative from the Landlord nor from the Landlord's letting agents, J A McTaggart, attended the hearing.

Mr. Honeyman indicated that the Landlords were responsible for all repairs with the exception of internal decoration and he submitted the Form RRI which is an Application for Registration of Rent duly signed by Ms McNeice of J A McTaggart on 22 September 2009 which confirms this position. He indicated that he had first contacted the Landlord's letting agents to complain about the windows in February 2008 and, thereafter, a firm called Kingspark Glass, on the instructions of the Landlord's letting agents, attended at the house in the summer of 2008 to provide a survey and an estimate for repairing/replacing the windows. Following upon this survey by Kingspark Glass, Ms. McNeice

confirmed that the windows needed replaced and she indicated during a conversation in early December 2008 that she hoped the new windows would be installed before the end of the year although there may be problems installing PVC windows in a conservation area. Since then he had written to the Landlord's letting agents but they had not responded and this prompted him to apply to PRHP. He has had no indication that the Landlord's agents have made any application for local authority consent for the installation of new windows. Once Mr. Honeyman had given his evidence and made representations on the application, the Committee adjourned to consider the evidence and representations, and to make their determination.

### **Summary of the issues**

8. 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 had complied with the duty imposed by Section 14(1)(b).

### **Findings in Fact**

9. The Committee made the following findings in fact:-

9.1. The Tenant entered into a lease with the Landlord for the rent of a house at G/R, 10 Melville Street, Pollockshields, Glasgow around 30 years ago.

9.2. The Tenant notified the Landlord's letting agents of the required works to the windows in 2008 and the Landlord's letting agents were aware of the required repairs.

9.3. The house is a ground floor flat in a blond sandstone tenement built around 1900 comprising lounge, kitchen, 2 bedrooms, and bathroom. Since the Tenant's complaint related only to the windows, the Committee confined their inspection to these items. However, for safety reasons the Committee indicated to the Tenant at the inspection that the smoke alarm required attention as it appeared to lack batteries.

The weather at the time of inspection on 2 October 2009 was wet.

The inspection revealed :- that the house had the original sash and case single glazed windows and it was obvious from the condition of the windows that no maintenance work had been carried out on them for years. Externally the window decoration was very poor and the windows required painting; repairs to the mastic were required in a number of windows; putty was missing around the glass of some windows; and the sill and frame of the kitchen window and a runner framing the rear bedroom window were rotten. Internally it was noticed that a cord was broken in one of the lounge bay windows; there were cracks in windows in the lounge, kitchen and rear bedroom; some windows could not open although in some instances the Tenant had pinned the lower case windows for security reasons; and draught excluders had been installed to try to prevent draughts.

## **Reasons for the Decision**

11. In considering the repairing standard issue the Committee carried out an internal and external inspection of the house and in particular closely examined the specific defects highlighted by the Tenant in the application. In addition the Committee carefully considered the written documentation and oral evidence submitted. The Committee considered the representations of Mr. Honeyman in relation to the repairing standard.

Visual inspection of the house indicates that the windows are in very poor condition, and the Committee mindful of Section 13(1)(b) of the Act which states that the house meets the repairing standard if " 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", considers that the Landlord has failed to comply with this repairing standard given the condition of the windows. The Committee considers that to comply with Section 13(1)(b) of the Act the windows require to be repaired or replaced to ensure that they are in a reasonable state of repair and in proper working order. The Committee considered that a period of 56 days from service of the Notice on the Landlord would be a reasonable period of time for the repairs to be carried out.

## **Decision**

12. 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.

13. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(2), which Order is referred to for its terms.

14. The decision of the Committee was unanimous.

## **Right of Appeal**

**15. 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**

16. 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 Devanny

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Chairperson,  
2 October 2009