

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

ref: PRHP/EH7/207/11

**Re: Property at Ground Floor Flat (East) 16 Dryden Street, Pilrig,
Edinburgh ("the Property")**

Sasine Description: All and Whole that flatted dwellinghouse being the northeast or east house on the ground floor at 16 Dryden Street, Pilrig, Edinburgh, County of Midlothian being the subjects more particularly described in Disposition by Joint Properties Limited to Douglas Alexander McDonald Shaw recorded in the General Register of Sasines for the County of Midlothian on the Twenty-fifth day of January Nineteen Hundred and Fifty-two

The Parties:-

Carolyn Clark Day, 18 Eyre Crescent, Edinburgh ("the Landlord")

William Tweedie, 16/2 Dryden Street, Edinburgh EH7 4PN ("the Tenant")

**NOTICE TO Carolyn Clark Day, 18 Eyre Crescent, Edinburgh
("the landlord")**

Whereas in terms of their decision dated 29th February 2011, 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:-

- (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 - Section 13(1)(b) of the said Act.

(2) The installation 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 - Section 13(1)(c) of the said Act.

(3) Any fixtures, fittings and appliances provided by the under the tenancy are in a reasonable state of repair and in proper working order - Section 13(1)(d) of the said Act.

the Private Rented Housing Committee now requires the landlord to carry out such works as are necessary for the purposes of ensuring the house meets the repairing standard and that any damage caused by the carrying out of any works in terms of this order is made good.

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

- To securely fix the vent cover in the back bedroom both inside and out.
- To repair or replace (a) the kitchen unit below the sink, (b) the cooker, and © the washing machine.
- To stabilise the floorboards in the kitchen and to provide and lay floor covering thereon.
- To repair or replace the ventilation system in the kitchen and to ensure it is in proper working order.
- To ensure the drains are cleared and can be demonstrated to be free running from sink, bath and basin.

The Private Rented Housing Committee order that the work specified in this Order must be carried out and completed within a period of **eight weeks** 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 two preceding pages are executed by Anne McCamley, Solicitor, Chairman of the Private Rented Housing Committee at Edinburgh on the Third day of March, Two Thousand and Twelve before Murdoch McCamley, Chartered Accountant, Osborne House, Osborne Terrace, Edinburgh.

Murdoch McCamley

(witness)

Anne McCamley

Chairman

Determination by the Private Rented Housing Committee

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

ref: PRHP/EH7/207/11

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The Parties:-

Carolyn Clark Day, 18 Eyre Crescent, Edinburgh ("the Landlord")

William Tweedie, 16/2 Dryden Street, Edinburgh EH7 4PN ("the Tenant")

Decision

The Committee, having made such enquiry as it sees fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14(1)(b) of the said Act in relation to the property concerned, and taking account of the evidence led by both the Landlord and the Tenant at the Hearing determines that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.

Background

- 1. By application dated 14th November 2011 the Tenant applied to the Private Rented Housing Panel for a determination as to 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 he considered the Landlord had failed to comply with the duty to ensure the house meets the repairing standard and brought forward the following alleged breaches:-

- (a) There is a gap in the exterior wall in the large bedroom
- (b) There is an infestation of bugs in the kitchen
- (c) There is dampness in the kitchen
- (d) There is a broken pipe in the sink in the kitchen
- (e) The washing machine is broken
- (f) The cooker is broken
- (g) The flooring and the kitchen cupboard units are broken and need replaced
- (h) There is no hot water
- (i) The boiler is broken
- (j) There is no heating
- (k) The door entry system does not work

3. The Private Rented Housing Committee served a Notice of Referral dated 1st December 2011 under and in terms of Schedule 2, Paragraph 1 of the Act on both the Landlord and the Tenant.

4. The Private Rented Housing Committee comprising Mrs. Anne McCamley (Chairman), Mr. Donald Marshall (Surveyor), Mrs. Christine Anderson (General Member) inspected the property on the morning of the 29th of February 2012. Both the Tenant (Mr. Tweedie) and the Landlord (Ms. Day) were in attendance. Also in attendance were Miss C. Miller supporting Mr. Tweedie and Mr. C. Perry supporting Ms. Day

5. Following the inspection of the property the Private Rented Housing Committee held a Hearing at Thistle House, Haymarket Terrace, Edinburgh. The Tenant and the Landlord were given the opportunity to make submissions to the Committee.

6. At the outset of the Hearing the Tenant confirmed the following matters had been resolved prior to the hearing:-

- The boiler has been replaced accordingly the property now has a working central heating system and a hot water supply.
- The infestation has been professionally treated and as at today's date there is no live infestation in the property.

7. The Tenant submitted there was a gap in the exterior wall of the back bedroom and although a vent cover had been affixed it was broken and the room was cold as a result. The broken pipe in the kitchen had been replaced however the drains "back up" and the sink doesn't clear. It is the same in the bathroom. The washing machine doesn't drain and Mr. Tweedie believes that failure is because the drains are substantially blocked. The kitchen unit beneath the sink is damp and the base thereof is broken. The cooker has been "condemned" by the Gas Board. The extractor fan in the kitchen does not work properly. The kitchen floor is down to bare floor boards which boards are inadequately fixed. The kitchen floor represents a trip hazard. The plug for the electric fire flashes yellow on occasion and the strip light in the kitchen is very slow to come on. The door entry system is not working properly.

7. The Landlord submitted she had arranged for a plumber to fix the pipes and the washing machine. She understood the work had been done. The Tenant confirmed a plumber had attended and fixed the pipe under the sink however had then left the job after replacing a broken pipe under the kitchen sink saying the required work would be more expensive than the price he had originally quoted to the landlord . Thereafter the plumber had not returned.

As regards the extractor fan in the kitchen the Landlord stated it had been working when the house was originally let and any disrepair may be as a result of tenant interference.

Kitchen floor coverings are available however the landlord requires access to have the flooring fitted and in any event if further work is required in the kitchen it would be precipitous to lay a new floor covering.

The Landlord produced an in-date electrical safety certificate.

A gas certificate confirmed the boiler was in good working order but condemned the cooker as it had no safety device and there was no adequate ventilation in

the kitchen.

Findings of Fact

8. Having inspected the property and taken account of the whole oral and written evidence and thereafter being guided by the Committee's professional Surveyor Member, the Committee finds the following facts to be established:-

(a) On inspection the vent cover in the rear bedroom is not properly fixed to the wall.

(b) The pipe work and drainage system controlling the flow of water to and from the property are not in proper working order. There is an unpleasant smell when the water runs and we accept the evidence of Mr. Tweedie that the sink is slow to clear. We also accept he was told by the plumber that the pipes were blocked "further up" and accordingly we conclude there is an unresolved drainage issue.

(c) The washing machine does not drain. The cooker has been condemned and the sink unit cupboards are broken. Accordingly these items are not in a reasonable state of repair or in proper working order.

(d) The flooring in the kitchen is not in a reasonable state of repair and represents a trip hazard. One of the Committee Members came close to falling in the kitchen.

(e) The door entry system does not operate properly. This was self-evident when we attended at the property.

(f) The expelair ventilator in the internal kitchen was demonstrably not in working order on the date of the inspection.

Accordingly we find the Repairing Standard is not met as regards Section 13(1)(b), (c) and (d).

Decision

9. The Committee determines that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.
10. The Committee makes a Repairing Standard Enforcement Order as required by Section 24(1) of the Act.
11. The decision of the Committee is unanimous.

Right of Appeal

12. **A Landlord or Tenant aggrieved by the decision of the Private Rented Housing Committee may apply to the Sheriff by summary application within 21 days of being notified of that decision.**

Effect of Section 63

13. 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 **Anne McCamley**
Chairman

Date 29th February 2012