



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/DD1/21/12

Re: 17D Forest Park Road, Dundee, DD1 5NZ ("the Property")

Sasine Description: ALL and WHOLE the northmost first floor flat at 17 Forest Park Road, Dundee being the subjects more particularly described in and disposed by Disposition by S McLennan Limited in favour of Melville Strachan Matthew and Margaret Cumming Matthew recorded in the division of the General Register of Sasines for the County of Angus on 3 December 1998

The Parties:-

MR AND MRS MEL MATTHEW, Spouses, residing together at Quarry Cottage, Main Street, Inchtute, Perthshire ("the Landlords")

MR LEON MACLEOD-MACLEAN residing at 17D Forest Park Road, Dundee, DD1 5NZ ("the Tenant")

### NOTICE TO MR AND MRS MEL MATTHEW ("the Landlords")

Whereas in terms of their decision dated 17 May 2012, 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 property is:-

- (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) The installations in the Property 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;
- (c) Any fixtures, fittings and appliances provided by the Landlords under the tenancy 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 at the Property sufficient to ensure that they are properly wind and watertight, capable of opening and closing properly and otherwise meet the repairing standard.
- (b) To properly reinstate the box work around the rear of the toilet area.
- (c) To properly affix the cooker hood and the cooker.
- (d) To provide a clear Electrical Installation Condition Report from a suitably qualified electrician confirming that the electrical installation within the Property meets the appropriate standard.

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.

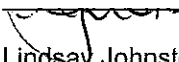
In witness whereof these presents type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 17 May 2012 before this witness:-

**L Johnston**

\_\_\_\_\_ witness

**E Miller**

\_\_\_\_\_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/DD1/21/12

Re: 17D Forest Park Road, Dundee, DD1 5NZ ("the Property")

### The Parties:-

MR LEON MACLEOD-MACLEAN residing at 17D Forest Park Road, Dundee, DD1 5NZ ("the Tenant")

MR AND MRS MEL MATTHEW, Spouses, residing together at Quarry Cottage, Main Street, Inchtute, Perthshire ("the Landlords")

### Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords 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 both the Landlords and the Tenant at the hearing, determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

### Background

1. By application dated 23 January 2012 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords 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 Landlords had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlords had failed to ensure that:-
  - (a) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
  - (b) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
  - (c) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
  - (d) The installations in the Property 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;
  - (e) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. By letter dated 6 February 2012 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 Landlords and the Tenant.
5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than his original application. The Landlords made written representation by virtue of letters of 12 February and 12 March 2012.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member; Mr D Godfrey, Surveyor Member; and Mr A McKay, Housing Member; accompanied by the Clerk, Mr S Young) inspected the Property on the morning of 17 April 2012. The Tenant was present during the inspection. The Landlords were not present.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Douglas Community Centre, Douglas, Dundee and heard from the Tenant. The Tenant represented himself. The Landlords were not present nor represented.
8. The Tenant submitted that the Property did not meet the repairing standard. His principal concerns were the poor quality of the windows, the condition of the electrical installation within the Property, the drainage from the bathroom and the cooker and extractor hood above it not being properly affixed. The Tenant made a number of representations about his relationship with the Landlords but these were not relevant for the purposes of the Committee's determination.

#### **Summary of the issues**

9. The issues to be determined were:-
  - (1) Whether the toilet at the Property was blocked and causing flooding to the flat beneath.
  - (2) Whether the windows were properly wind and watertight and otherwise met the repairing standard.
  - (3) Whether there were holes in the interior walls in the bathroom and hall.
  - (4) Whether the lock on the front door was in proper working order.
  - (5) Whether the cooker and the cooker hood were properly affixed.
  - (6) Whether the electric shower was in proper working order and properly connected to the electrical system.
  - (7) Whether there was a hole in the bath surround.
  - (8) Whether there was a proper working smoke alarm in the Property.

#### **Findings of fact**

10. The Committee found the following facts to be established:-
  1. Whilst not particularly well plumbed in, the toilet was in proper working order, although the box work around the toilet needed to be reinstated.
  2. The windows at the Property were not properly wind and watertight and did not meet the repairing standard.
  3. There was no evidence of any material holes in the interior walls that breached the repairing standard.

4. The Tenant had already changed the lock on the front door and therefore there was no breach of the repairing standard.
5. The cooker and cooker hood were not properly affixed to their housings.
6. It was not readily apparent that the shower had been correctly connected to the electrical system.
7. There was no hole in the bath surround.
8. There was a proper working smoke alarm.

#### **Reasons for the decision**

11. The Committee based its decision primarily on the evidence obtained during the course of its inspection. The Committee first of all inspected the windows at the Property. The Committee first inspected the lounge window facing the front of the Property. This was in poor condition and was not capable of being opened and closed properly. On the right hand part of the window there was a significant gap between the upper and lower panes to the extent that a hand could readily be inserted into the gap. This meant there was a significant degree of wind ingress. The Committee were satisfied that the windows would require to be repaired or replaced sufficient to make them properly wind and watertight and in proper working order. The Committee also inspected the window in the kitchen. This window was effectively a louvre window and was in poor condition. It could not be said to be properly wind and watertight and the Landlords would require to carry out such works of repair or replacement as were necessary to render it properly wind and watertight. In relation to the bedroom to the rear of the Property, the Committee were not able to carry out full examination of this due to the amount of Tenant's possessions in front of the window. However from an external visual inspection it too appeared to be dated and in poor order. Again the Landlord would require to carry out such works as were necessary to render the window properly wind and watertight and in proper working order.

The Committee then inspected the toilet at the Property. This appeared to be flushing properly. The Committee noted that the plumbing works had been carried out to a fairly low standard and that the rear pipe had a slight rise to it as opposed to a fall. Nonetheless there did not appear to be any leaks and it appeared to flush properly. The box work around the rear of the toilet had been removed and this would require to be replaced and made good as there was a large hole in the floor behind the toilet as a result.

The Committee inspected the holes in the internal walls that the Tenant complained of. These were a result of cables being run through internal walls. The Committee were of the view that these were immaterial and were not a breach of the repairing standard.

The Committee noted that the Tenant had replaced the lock on the front door himself and this was therefore no longer an issue.

The Committee inspected the cooker hood and noted that the top part of this was not affixed to the rest of the extraction unit. This was capable of falling off and causing an injury and would require to be properly affixed. The cooker itself could be pulled out of its housing as, again, it was not properly affixed. Both these issues would require to be addressed by the Landlords.

The Committee then inspected the electric shower at the Property. The Committee were unable to trace the cabling for this and were concerned that this had not been properly installed. Accordingly the Committee wished to have sight of an Electrical Installation Condition Report from a suitably qualified electrician confirming that all of the electrical installations within the Property met the appropriate standard.

The Tenant advised that since his application the hole in the bathroom surround had been fixed by the Landlords and this was no longer an issue.

The Committee also noted that there was a hardwired mains smoke alarm in proper working order and this was, therefore, not an issue either.

**Decision**

- 12. The Committee accordingly determined that the Landlords 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(1).
- 14. The decision of the Committee was unanimous.

**Right of Appeal**

- 15. A Landlords 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.

**E Miller**

Signed ..... Date 17/5/12  
Chairperson