



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP/EH124/32/13

**Re: All and whole the subjects known as 3/1 Dumbryden Grove, Edinburgh, EH14 2QP being the subjects more particularly described in the Disposition of 10 February 1992 by Joanne Robin Falconer (otherwise Joanne Robin Tutton) formerly 53 Windsor Park, Musselburgh to Barry MacFarlane, 2 Merlin Crescent, Inverness referred to in the Disposition to Mary Eileen Telford recorded 27 February 1992 (Search Sheet Number 224895).**

**("the Property")**

**The Parties:-**

**Mr Ricardo De Freitas  
resident at the Property**

**("the Tenant")**

**and**

**Mr Barry MacFarlane  
11 Abbey Court  
Inverness  
IV3 8SN**

**("the Landlord")**

**The Committee comprised:**

**Mr Ron Handley – Chairperson  
Mr Ian Mowatt – Surveyor  
Ms Mary Lyden – Housing Member**

### **NOTICE TO THE LANDLORD**

Whereas in terms of their decision dated 14 June 2013, the Private Rented Housing Committee ("the Committee") determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and that the Landlord had failed to ensure that:-

- (a) the Property was wind tight and in all other respects reasonably fit for human habitation;

- (b) the installation for the supply of space heating was in a reasonable state of repair and in proper working order;
- (c) some of the fixtures, fittings and appliances were in a reasonable state of repair or in proper working order.

The Committee now requires the Landlord to carry out such works as are necessary for the purposes of ensuring that the Property 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:-

- (a) replace the central heating boiler using a Gas Safe Registered Engineer and provide a Gas boiler Safety Certificate (CP12);
- (b) replace the seals in the windows of the small rear facing bedroom;
- (c) repair or replace the oven;
- (d) provide the Committee with a valid Landlord's Gas Safety Certificate which relates to the Property.

The Private Rented Housing Committee orders that the works specified in this Order must be carried out and completed within the period of six 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 this and the preceding page are subscribed by Ronald G Handley, Solicitor, Chairperson of the Committee at Dunbar on the 14 day of June 2013 before this witness:-

J Handley

Witness

R Handley

Chairperson

ANDREW HANDLEY

Name in full

23 LESLIE WAY

Address of witness

DUNBAR

COLLEGE MANAGER

Occupation



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

PRHP/EH124/32/13

**Re: The residential dwellinghouse at**

**3/1 Dumbryden Grove  
Edinburgh  
EH14 2QP**

**(“the Property”)**

**The Parties:-**

**Mr Ricardo De Freitas  
resident at the Property**

**(“the Tenant”)**

**and**

**Mr Barry MacFarlane  
11 Abbey Court  
Inverness  
IV3 8SN**

**(“the Landlord”)**

**The Committee comprised:**

**Mr Ron Handley – Chairperson  
Mr Ian Mowatt – Surveyor  
Ms Mary Lyden – Housing Member**

**The Committee’s Decision**

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the duty imposed by Section 14(1) (b) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the Property, and taking account of the evidence before it, unanimously determined that the Landlord had failed to comply with the duty imposed by Section 14(1) (b).

## **Background**

1. On 20 February 2013 the Tenant applied to the Private Rented Housing Panel ("the PRHP") for a determination as to 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 application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee ("the Committee") in accordance with Section 22(1) of the Act.

## **The Application**

3. In his application the Tenant alleged that the Landlord had failed to comply with the 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 respects reasonably fit for human habitation. It was also suggested that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water were not in a reasonable state of repair and not in proper working order and that some of the fixtures, fittings and appliances were not in a reasonable state of repair or in proper working order.
4. In particular the Tenant submitted in his Application Form that:
  - (i) the boiler required to be repaired or replaced;
  - (ii) the windows required to be repaired or replaced;
  - (iii) the taps required to be repaired or replaced;
  - (iv) the front door required to be repaired or replaced;
  - (v) the oven required to be repaired or replaced.

## **The Evidence**

5. The Committee had before it documents which included Land Register documents, a copy of the Tenancy Agreement, a copy of the Application Form and copies of various e-mails and letters.

## **The Inspection**

6. The Committee inspected the Property on 3 June 2013 at 10.15hrs. The Landlord was not present at the inspection and not represented. The Tenant was present at the inspection and represented by Mr Martin Barnes, Edinburgh Housing Advice Partnership.

## **The Hearing**

7. A Hearing was arranged to take place after the inspection at 11.00hrs in Thistle House, 91 Haymarket Terrace, Edinburgh. The Landlord did not attend the Hearing and was not represented. The Tenant was present at the Hearing and represented Mr Martin Barnes.

## **Summary of the issue**

8. The issue to be determined by the Committee was whether the Landlord had complied with the requirements of the Act to ensure that the Property met the Repairing Standard.

## **Findings**

9. The Committee found the following facts to be established:
  - On 1 January 2011 the Tenant and the Landlord entered into a Tenancy Agreement that related to the Property.
  - The Property is a three bedroom ground floor flat in a block of flats built around 1970.
  - The Property is heated by a gas central heating system. The gas boiler is not in a reasonable state of repair and not in proper working order.
  - The windows in the Property are double glazed. Other than the window in the small rear facing bedroom, the windows throughout the Property are in a reasonable state of repair and in proper working order. The external seals in the windows in the small rear facing bedroom are not in proper working order.
  - The taps in the kitchen and in the bathroom are in a reasonable state of repair and in proper working order.
  - The external front door (leading to the communal stairway) is in a reasonable state of repair and in proper working order.
  - The oven is not in proper working order.

## **Reasons for the Decision**

10. As indicated, the Tenant submitted in his application that the central heating boiler required to be repaired or replaced. During the inspection and at the Hearing the Tenant explained that an engineer had attended at the Property and had executed some repairs to the boiler. At the time of the inspection the boiler appeared to be working but the Committee noted that the ignition switch was loose. At the Hearing the Tenant advised the Committee that although the boiler ignited he had received

electric shocks when operating the ignition switch. The Committee noted that the boiler was dated and the ignition switch was loose. We had little reason to doubt that the Tenant had received electric shocks when operating the boiler. It was clear that the boiler is dated and is not in a reasonable state of repair and not in proper working order. The boiler requires to be replaced.

11. The windows throughout the Property are double glazed and the Committee found no evidence of dampness/condensation within the double glazing panes. At the time of the inspection the weather was dry and there was no wind. Consequently it was not clear if the windows were wind tight. However the Committee were able to inspect the external rubber seals of all the windows in the Property. Other than the external seals in the windows in the small rear facing bedroom, all the window seals were in a reasonable state of repair. None were perished or damaged. However the seals in the windows of the small rear facing bedroom were damaged and not in proper working order. These seals should be replaced.
12. In the course of the inspection and at the Hearing the Tenant advised that although some of the taps had been leaking at the time of his application, repairs had been executed and the taps no longer leaked. However the Tenant advised the Committee that the taps in the bath were stiff and difficult to turn. Nonetheless the Committee found that the bath taps did not leak and concluded that they were in a reasonable state of repair and in proper working order.
13. The external front door of the Property leads to a communal stairway. The Tenant confirmed at the inspection and at the Hearing that a draft excluder had been fitted to the base of this door since the date of his application to the PRHP. The Committee also noted that the seal around the door appeared to be intact. Taking account of the age and character of the Property, the Committee found that this door was in a reasonable state of repair and in proper working order.
14. In the course of the inspection and at the Hearing the Tenant advised the Committee that recent efforts had been made to repair the oven. At the time of the inspection the oven was switched on but it was not working (although the grill within the oven was working). The oven is not in proper working order and requires to be repaired or replaced.

#### **Decision**

15. The Committee determined that the Landlord had not complied with the duty imposed by section 14(1)(b) of the Act.
16. The decision of the Committee was unanimous.

**Right of Appeal**

17. A Landlord(s) or Tenant (s) aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

**Effect of section 63**

18. 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. 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 .....R Handley  
Chairperson

..... Date 14 June 2013