



REPAIRING STANDARD ENFORCEMENT ORDER

BY THE

PRIVATE RENTED HOUSING COMMITTEE

PRHP Ref; FK8/35/11

PROPERTY

1A Allan Park, Stirling, FK8 2QG TITLE NUMBER STG29504

PARTIES

MISS SARAH DOHERTY, formerly residing at 1A Allan Park, Stirling, FK8 2QG.

Tenant

And

**MR KENNETH MARNOCH AND MRS CHRISTINE MARNOCH, c/o Grant
Management, 14 Coates Crescent, Edinburgh, EH3 7AF.**

Landlord

**REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO') AGAINST MR
KENNETH MARNOCH AND MRS CHRISTINE MARNOCH, c/o Grant Management, 14
Coates Crescent, Edinburgh, EH3 7AF.**

1. **WHEREAS** in terms of their decision dated 9th December, 2011 the Private Rented Housing Committee ('the Committee') determined that the landlord has failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 ('the Act') and in particular the property fails to meet the repairing standard as set out in section 13(1) of the Act.
2. The Committee now requires the landlord carry out such work as is required to ensure the property meets the repairing standard and that any damage caused as a consequence of carrying out of any works in terms of this Order are also made good (ie; redecoration) before the expiry of the Completion Date.

THE ORDER

3. In particular, and without prejudice to the foregoing generality, the Committee **HEREBY ORDERS** the landlord to carry out the following repairs ('the Works');-
 - 3.1 The damp and moisture present in the second floor bedrooms and first floor living room of the property require to be remedied to ensure the property is water tight and in all other respects reasonably fit for human habitation.
4. The Committee **HEREBY FURTHER ORDERS** that the Works specified in this Order must be carried out and completed before the expiry of the Completion Date of **EIGHT WEEKS** from the date of service of this Order.

RIGHT OF APPEAL

5. A landlord or tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

EFFECT OF APPEAL

6. In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any 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 consisting of this and the preceding two pages are subscribed by me, Steven Peter Walker, Advocate & Barrister, Chairman of the Private Rented Housing Committee, at London on the ninth day of December two thousand and eleven before this witness, Hee Kiat Sii, solicitor, c/o 2-5 Warwick Court, London.

S Walker

Chairman

H K Sii

Witness



**PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF REASONS**

PROPERTY:

1A Allan Park, Stirling, FK8 2QG

INSPECTION & HEARING

24th November, 2011

STATEMENT OF REASONS

INTRODUCTION

1. This is an application ('the application') made under section 22(1) of the Housing (Scotland) Act 2006 ('the Act') by Mr Neil Doherty ('the agent') on behalf of his daughter, Miss Sarah Doherty ('the tenant') regarding the property known as and forming 1A Allan Park, Stirling, FK8 2QG ('the property'). The landlord of the property Mr and Mrs K Marnoch ('the landlord') c/o Grant Management, 14 Coates Crescent, Edinburgh, EH3 7AF.

2. In the application the tenant contends that the landlord has failed to comply with the duty imposed on them by section 14(1)(b) of the Act as the property fails to meet the repairing standard as set out in section 13(1) of the Act.

3. The Committee comprised

Chairman	Mr Steven Walker
Surveyor	Mr Kingsley Bruce
Housing Member	Mrs Christine Anderson

THE DOCUMENTATION

4. The Committee considered all the documents referred to it by the parties.

THE INSPECTION

5. The Committee inspected the property and obtained a key from a local solicitor. Neither the tenant nor the landlord were present at the inspection. The tenant no longer occupies the property.

DESCRIPTION OF THE PROPERTY

6. The property is a flatted dwellinghouse over the first and second floors comprising on the first floor of living room, kitchen and two bedrooms and on the second floor of two bedrooms, boxroom and a bathroom. The property is in the heart of Stirling and close to local amenities.

THE HEARING

7. Neither the tenant nor the landlord attended the hearing. The Committee then proceeded to determine the application. The tenant's complaint is that the landlord had failed to meet the repairing standard as detailed in the application. In summary, the tenant considers there has been a failure by the landlord to meet the repairing standard on the following matters;-

- (a) Water entering a bedroom causing dampness;
- (b) Dampness and rainwater entering the living room;
- (c) Ineffective repair to roof.

THE ACT

8. Section 14(1)(b) of the Act provides;-

"14 Landlord's duty to repair and maintain

(1) The landlord in a tenancy must ensure that the house meets the repairing standard—

- (a) at the start of the tenancy, and*
- (b) at all times during the tenancy."*

9. Section 13 of the Act provides;

"13 The repairing standard

- (1) A house meets the repairing standard if—
- (a) the house is wind and water tight and in all other respects reasonably fit for human habitation,
 - (b) 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,
 - (c) the installations 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,
 - (d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order,
 - (e) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed, and
 - (f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.”

FINDINGS OF FACT & REASONS

10. The complaints before the Committee as per the tenant's application and our determinations in relation to this are as follows;-

(a) Water entering a bedroom causing dampness;

11. At the inspection, there was evidence of damp/moisture in the two second floor bedrooms adjacent to the gable wall. This was confirmed on testing with a damp meter. Accordingly, the Committee determines that the property is not water tight and in all other respects reasonably fit for human habitation.

(b) Dampness and rainwater entering the living room;

11. At the inspection, there was evidence of damp/moisture in the living room front wall. This was confirmed on testing with a damp meter.

Accordingly, the Committee determines that the property is not water tight and in all other respects reasonably fit for human habitation.

(c) Ineffective repair to roof.

16. At the inspection, there was no evidence of an ineffective roof repair. From a visual observation, both from skylight and street level, the roof appeared to be relatively good condition and in reasonable repair. Accordingly, the Committee makes no determination in this regard.

SUMMARY OF DECISION

17. The Committee accordingly determines that the landlord has failed to comply with the duty imposed by section 14(1)(b) of the Act in respect of certain complaints.
18. The Committee accordingly makes a Repairing Standard Enforcement Order as required by section 24(1).


RIGHT OF APPEAL

19. A landlord or tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

EFFECT OF APPEAL

20. In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

S Walker

Signed 

Steven P Walker
Advocate & Barrister

Chairman
Private Rented Housing Committee

9th December, 2011