

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re: The flatted dwellinghouse at 180/4 Dalkeith Road, Edinburgh EH16 5BU, being the subjects registered in the Land Register of Scotland under Title Number MID73814 ("the Property")

The Parties:-

MS MIRIAM McLEOD, residing at 180/4 Dalkeith Road, Edinburgh EH16 5BU ("the Tenant")

MS SAMANTHA PARKASH, residing at 2 Granton Road, Edinburgh EH5 3QH ("the Landlord")

NOTICE TO MS SAMANTHA PARKASH, residing at 2 Granton Road, Edinburgh EH5 3QH ("the Landlord")

Whereas in terms of their decision dated 30th September 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 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 repairs as are 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 to carry out such works as are necessary. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(2) of the Act. In particular the Committee requires the Landlord to carry out such works as are necessary to repair and overhaul all the windows within the Property, and in particular to renew the putty and mastic pointing in the windows as necessary, fix draught sealants, and paint the windows (both internally and externally) to preserve their integrity. The Committee further requires the Landlord to carry out such works as are necessary to repair the broken window in the rear back bedroom of the Property.

The Committee further determined that any damage caused by the carrying out of any work in pursuance of the necessary repairs to the Property is to be made good by the Landlord.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within one calendar month 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.

A Cowan

Signed.....
Chairperson

..... Date..... 30/9/09.....

C A Millar

Witness.

Name in full Carol Anne Millar

Address 7 West George Street, Glasgow G2 1BA

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

Re: The flatted dwellinghouse at 180/4 Dalkeith Road, Edinburgh EH16 5BU, being the subjects registered in the Land Register of Scotland under Title Number MID73814 ("the Property")

The Parties:-

MS MIRIAM McLEOD, residing at 180/4 Dalkeith Road, Edinburgh EH16 5BU ("the Tenant")

MS SAMANTHA PARKASH, residing at 2 Granton Road, Edinburgh EH5 3QH ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property concerned, and taking account of the evidence led by the Tenant in writing and at the hearing, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

- 1 By application dated 24th June 2009 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of The Housing (Scotland) Act 2006.
- 2 By letter dated 23rd July 2009 the President of the Private Rented Housing Panel intimated a decision to both the Landlord and the Tenant to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
- 3 In addition the Tenant has been assisted in preparing her application by representatives of Edinburgh City Council Private Rented Services Department.
- 4 In addition to her application to the Private Rented Housing Panel, the Tenant also lodged the following papers with the Panel in support of her application:
 - (a) Copy letter addressed to the Landlord dated 8th June 2009.
 - (b) Copy letter from the Tenant's representative to the PRHP dated 24th June 2009.

The Landlord lodged no written representations with the Committee.

- 5 The Private Rented Housing Committee inspected the Property on the morning of 30th September 2009. The Tenant and Miss Lindsay Souter from Edinburgh City Council were present during the inspection. The Landlord did not attend the inspection. The Committee had been in contact with the Landlord's father, Mr Ved Parkash, who acted as the Landlord's agent. Mr Parkash confirmed that the Landlord was aware of the inspection and the proposed hearing and that the Landlord did not intend to be present at either the inspection or the hearing. He indicated that the Landlord had carried out the necessary works to ensure the Property met with the Repairing Standard.
- 6 Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Apex Hotel, 61 Grassmarket, Edinburgh. The Tenant's representative from Edinburgh Council, Miss Lindsay Souter, attended the hearing. The Tenant did not attend the hearing. The Landlord did not attend the hearing.
- 7 In terms of her application the Tenant submitted that she considered the Landlord had failed to meet the Repairing Standard as the Property had the following defects:-
- (a) The light switch in the kitchen was loose and broken.
 - (b) The windows in the Property were not wind and watertight.
 - (c) The glass pane in the window in the rear bedroom was broken.
 - (d) The flooring in the bathroom was cracked.
 - (e) The flooring in the hall was worn.
 - (f) There is mould on the bathroom wall.
 - (g) The TV aerial was loose and does not work.
 - (h) The extractor fan in the kitchen did not work.
 - (i) The socket in the living room was broken, with evidence of scorching.

The Committee's observations from their inspection of the Property along with the comments of the Tenant's representative noted at the hearing are as follows:-

	Complaint	Observation
(a)	Broken light switch in kitchen	The Committee noted that the Landlord had carried out the necessary repairs to the light switch and the Tenant now accepted that this matter had been repaired.
(b)	Window of Property were not wind and watertight	The Committee noted that all of the windows in the Property are in need of a general overhaul. All the windows appeared of loose fittings. All windows required some renewal of the putty and mastic pointing. All of the windows required draught sealing. All of the windows required painting to preserve their integrity. All the windows in the Property were of a sash in case type. All of the windows were in general need of repair. All of the windows within the Property had excessive draughts into the rooms within the Property, particularly during cold and windy weather.
(c)	Broken window pane in rear bedroom	The Committee noted that the window in the rear bedroom was broken and was currently covered by protective taping.

(d)	Cracked flooring in the bathroom	The Committee noted that the Landlord had laid new vinyl flooring in the bathroom. The Tenant accepted that this particular repair had now been addressed by the Landlord.
(e)	Worn flooring in the hall	The Committee noted that the Landlord had laid new flooring in the hall of the Property and the Tenant accepted that this was the case.
(f)	Mould on the bathroom wall	The Committee noted that there was evidence of mould at the top part of the wall in the bathroom. The Committee further noted that there was mould on the opposite side of the same wall in the small bedroom to the rear of the Property. The Committee were unable to determine the source of the dampness. The dampness could have been caused by water ingress from the property above or penetrating damp from the exterior of the Property. It was not clear whether the cause of the dampness would involve a common repair to the Property.
(g)	Broken TV aerial	The Committee noted that the Landlord had now repaired the aerial and the Tenant accepted that this was the case.
(h)	Broken extractor fan in the kitchen	The Committee noted that the Landlord had now repaired the extractor fan in the kitchen and the Tenant accepted that this was the case.
(i)	Broken socket in the living room	The Committee noted the Landlord had repaired the socket and the Tenant now accepted that this was the case.

Summary of the issues

- 8 The issue to be determined by the Rented Housing Committee is whether or not the Property meets the repairing standard in terms of Section 13 (1) of the Act as at the date of the hearing. The committee considered the submissions of the Tenant, the Committee's own observations at the inspection and the documents submitted. They were satisfied that the Tenant had intimated the requirement for works to the Landlord as required by the Act. The Committee noted that the Landlord had carried out some repair work to the Property since the date of the Tenant's application.

The Committee accordingly determined as follows:-

	Complaint	Determination
(a)	Broken light switch in kitchen	The Committee noted that this matter had been repaired and there was no breach of the repairing standard in this respect.
(b)	Windows in the Property are not wind and watertight	The Committee accepted the evidence of the Tenant that there were excessive draughts from all the windows in the Property. The Committee further noted the poor general condition of the windows. The Committee were of the view therefore that as the windows form part of the structure and exterior of the house they were not in proper working order and they allowed excessive draughts and had not been properly maintained. The condition of the windows accordingly breach the terms of the Repairing Standard Section 13 (1)(b).

(c)	Broken window pane in rear bedroom	The Committee noted the broken window in the rear bedroom. As the window forms part of the structure and exterior of the house and is not in proper working order and accordingly breaches the terms of the Repairing Standard Section 13 (1)(b).
(d)	Cracked flooring in the bathroom	The Committee noted this item had now been and there was no breach of the repairing standard in this respect.
(e)	Worn flooring in the hall	The Committee noted this item had now been and there was no breach of the repairing standard in this respect.
(f)	Mould on the bathroom wall	The Committee agreed to issue a direction to the Landlord to investigate this matter further.
(g)	Broken TV aerial	The Committee noted this item had now been and there was no breach of the repairing standard in this respect.
(h)	Broken extractor fan in the kitchen	The Committee noted this item had now been and there was no breach of the repairing standard in this respect.
(i)	Broken socket in the living room	The Committee noted this item had now been and there was no breach of the repairing standard in this respect.

Decision

- 9 The Committee accordingly determined the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
- 10 The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(2) of the Act. In particular the Committee requires the Landlord to carry out such works as are necessary to repair and overhaul all the windows within the Property and in particular to renew the putty and mastic pointing in the windows as necessary, fix draught sealants, and paint the windows (both internally and externally) to preserve their integrity. The Committee further requires the Landlord to carry out such works as are necessary to repair the broken window in the rear back bedroom of the Property.

Observation

- 11 The Committee were unable to determine the cause of the dampness in the bathroom and rear bedroom of the Property. The Committee therefore decided to direct the Landlord to obtain a report from a suitably qualified builder on the likely cause and source of the dampness and any proposed works which might be required to eradicate this problem. A separate note of direction to the Landlord has been issued by the Committee in this respect.

Right of Appeal

- 12 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

- 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.

A Cowan

Signed .
Chairperson

..... Date 30/9/09

Witness

C A Millar

Full Name Carol Anne Millar

Address 7 West George Street, Glasgow G2 1BA