

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Ref: PRHP/EH11/58/12

Re: Property at 374/1 Gorgie Road, Edinburgh EH11 2RQ ("the Property")

Title: Subjects at 374/1 Gorgie Road, Edinburgh forming Title Number  
MID 78461

The Parties:-

Eugene O'Neale c/o The Bond House, 5 Breadalbane Street, Edinburgh  
("the Landlord")

Mrs. Margaret Paterson, 374/1 Gorgie Road, Edinburgh ("the Tenant")

NOTICE TO :-

Eugene O'Neale c/o The Bond House, 5 Breadalbane Street Edinburgh ("the  
Landlord")

Whereas in terms of their decision dated 29th 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:-

(1) The structure and exterior of the house (in this case the windows) are in a reasonable state of repair and in proper working order - Section 13(1)(b) of the said Act.

the Private Rented Housing Committee now requires the landlord to carry out such works as are necessary for the purpose 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 but without prejudice to the foregoing generality the Private Rented Housing Committee requires the Landlord:-

- To carry out such works as are necessary to ensure the sash cords are in tact.
- To ensure that handles are restored to all windows.
- To ensure a proper fit of window frames to render the windows substantially draught free.
- To ensure the windows open and close freely and are lockable.
- To repair or replace rotting wooden frames and sills.

The Private Rented Housing Committee order that the work specified in this Order must be carried out and completed within a period of twelve 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 one preceding page are executed by Anne McCamley, Solicitor, Chairman of the Private Rented Housing Committee at Edinburgh on the Eighth day of June, Two Thousand and Twelve before Murdoch McCamley, Chartered Accountant, 18 George Street, Edinburgh.

**M McCamley**

(witness)

**A 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

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MID 78461

The Parties:-

Eugene O'Neale c/o The Bond House, 5 Breadalbane Street, Edinburgh  
("the Landlord")

Mrs. Margaret Paterson, 374/1 Gorgie Road, Edinburgh ("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 2nd March 2012 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 she considered the Landlord had failed to comply with the duty to ensure the house meets the repairing standard and brought forward the following alleged breach:-
  - (a) All windows with the exception of the bathroom window need repaired,

improved or replaced

3. The Private Rented Housing Committee served a Notice of Referral dated 20th March 2012 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. Robert Buchan (Surveyor) and Mrs. Irene Kitson (Housing Member) inspected the property on the morning of the 29th of May 2012. Both the Tenant and the Landlord were in attendance. The Tenant was supported by her son.
5. Following the inspection of the property the Private Rented Housing Committee held a Hearing at Thistle House, Haymarket Terrace, Edinburgh. Both the Tenant and the Landlord made submissions to the Committee.
6. The Tenant submitted that all windows in the flat (with the exception of the bathroom window) required to be repaired, improved, renovated or replaced. The windows let in draughts. They do not open or close freely. Many of the windows do not have handles to allow them to be opened. Many of the frames are twisted or ill-fitting. Many sash cords are broken. The wooden frames are rotting. The external sills are spongy and rotting. On many windows the putty securing the glass to the frame is drying out and cracking and also the mastic securing the frame to the building is in a similar state of disrepair. In short, in the opinion of the Tenant the windows are neither in a reasonable state of repair nor in proper working order.
7. The Landlord submitted he had undertaken various repair works to the windows when the Tenant requested. He had sent his joiner to do this work. It was acknowledged by Mrs. Paterson that a joiner had attended and attempted to carry out some insignificant repairs. Mr. O'Neale went on to express the view that the windows were in a reasonable state of repair given the character of the property. It is a flat within a 1930's block and the windows reflect the building standards of their time. The rental income from the property is low.

## Findings of Fact

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

(a) Living room - the sash cord is broken. The windows are twisted in their frame and do not fully close. There are no handles on the windows.

(b) Dining room - the sill has decayed and is bare of decoration. The sash cord is broken. The window is not lockable.

© Front double bedroom - the sill has decayed and is bare of decoration. The putty is breaking up or/and missing from the window frame and the mastic seal is breaking up round the external frame.

(d) Kitchen - the window does not open and close freely and the bottom half does not open at all.

(e) Single room - the sash cord is broken and the window has no handles.

Having regard to the faults which we noticed on visual inspection we are satisfied the windows are not in a reasonable state of repair or in proper working order. We reached our decision after weighing up the oral and written evidence and applying our own expertise. Exercising our professional skill and judgement we have determined that in order to be considered to be in a reasonable state of repair and in proper working order at least the following standard should be achieved:-

All windows should open and close freely. The panes of glass must fit the window frames securely. The window frames must be secured to the building. The windows must fit properly into their frames without twisting. The sash cords must be in tact. Handles are required on all the windows. The wooden frames and sills must be in good condition and able to take an application of paint. The windows must be substantially draught free and lockable.

We took account of the landlord's opinion that the property was old and windows were 'of their era' however we decided that the foregoing standard can and must be met by all windows no matter when they were constructed.

We find there is a failure to meet the standard set out in Section 13(1)(b) of the Act.

#### Decision

9. The Committee accordingly 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.

**A McCamley**

Signed .....  
Chairman

Date *29<sup>th</sup> May 2012*