



*Confirmed as True Copy  
SM 17/8/11*

**REPAIRING STANDARD ENFORCEMENT ORDER**

**BY THE**

**PRIVATE RENTED HOUSING COMMITTEE**

PRHP Ref; ML/11/71/11

**PROPERTY**

1 Porteous Place, Forth, South Lanarkshire, ML11 8GA Title Number LAN 198639

**PARTIES**

**MRS NANCY BOYLE**, residing formerly at 1 Porteous Place, Forth, South Lanarkshire,  
ML11 89A

**Tenant**

and

**MR DAVID MACFARLANE**, residing at 17 Marlborough Heights, Belfast, BT6 9QR

**Landlord**

**REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO') AGAINST MR DAVID  
MACFARLANE**, residing at 17 Marlborough Heights, Belfast, BT6 9QR

1. **WHEREAS** in terms of their decision dated 12<sup>th</sup> August, 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 is 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 landlord is required to repair the matters listed below to ensure that these that these items are in a reasonable state of repair and in proper working order and further in relation to matters 13 and 14 listed below to ensure that the property is wind and water tight and reasonably fit for human habitation.

#### Kitchen

1. Window does not close and is jammed;
2. Floor tiles are cracked;
3. Handles on cupboard doors are broken;
4. Dishwasher does not work;
5. Plug sockets are blocked and fuses a lot;
6. Extractor fan missing the outside cover;

#### Sitting room

7. Vertical blinds are broken;

8. Some sockets do not work;
9. Carpet leading to kitchen has shrunk;

#### Downstairs Toilet

10. Sink leaks;
11. Toilet does not flush properly;
12. Toilet lid is broken;
13. Bad smell of damp;
14. Damp stain on roof;

#### Hall & Stairs

15. Front door does not open;
16. Walls and roof need repaired after leak in upstairs bathroom;

#### Small back bedroom

17. Carpet is ripped;

#### Back bedroom

18. Radiator thermostat broken;
19. Wardrobe door does not close;

#### Front bedroom

20. Vertical blind is broken;
21. Radiator thermostat is broken;

#### Bathroom

22. Hot tap on bath broken;
23. Light does not work;
24. Flush button jams.

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 **SIX WEEKS** from the date of service of this Order.
5. **TAKE NOTICE IT IS A CRIMINAL OFFENCE IF A LANDLORD FAILS TO FULLY COMPLY WITH THIS RSEO IN TERMS OF SECTION 28(1) OF THE HOUSING (SCOTLAND) ACT 2006.**
6. **TAKE NOTICE IT IS A CRIMINAL OFFENCE FOR A LANDLORD TO RE-LET A PROPERTY THAT IS SUBJECT TO RSEO WHICH HAS NOT BEEN FULLY COMPLIED WITH IN TERMS OF SECTION 28(5) OF THE HOUSING (SCOTLAND) ACT 2006.**

#### **RIGHT OF APPEAL**

7. 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**

8. 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 three pages are executed by me, Steven Peter Walker, Advocate and Barrister, Chairman of the Private Rented Housing Committee at London on the twelfth day of

August two thousand and eleven before this witness, Hee Kiat Sii, solicitor, c/o 2-5 Warwick Court, London, WC1R 5DJ.

**S Walker**

Chairman

**H K Sii,**



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**PRIVATE RENTED HOUSING COMMITTEE  
STATEMENT OF REASONS**

**PROPERTY:**

**1 Porteous Place, Forth, South Lanarkshire, ML11 8GA**

**INSPECTION & HEARING**

**26<sup>th</sup> July, 2011**

## STATEMENT OF REASONS

### INTRODUCTION

1. This is an application dated 15<sup>th</sup> March, 2011 ('the application') made under section 22(1) of the Housing (Scotland) Act 2006 ('the Act') by Mrs Nancy Boyle ('the tenant') regarding the property known as and forming 1 Porteous Place, Forth, South Lanarkshire, ML11 8GA ('the property'). The landlord of the property is Mr David MacFarlane, residing at 17 Marlborough Heights, Belfast, BT6 9QR ('the landlord').
  
2. In the application the tenant contends that the landlord has failed to comply with the duty imposed on him 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	Ms Carol Jones
Housing Member	Mr Scott Campbell

The Committee was assisted by the Clerk to Committee, Mr. Robert Shea.

### THE DOCUMENTATION

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

## **THE INSPECTION**

5. Neither the landlord nor tenant were present at the property and the Committee could not gain access. The Committee proceeded to have an external inspection and looked through the ground floor windows. The property appeared to be empty, although the kitchen floor was in substantial disrepair with broken tiles, some of which had been uplifted and left outside the back door.
6. Mr Robert Shea, Clerk to Committee, attempted to contact the landlord by phone without success.

## **DESCRIPTION OF THE PROPERTY**

7. The property is a modern detached new build house constructed c. 2007 comprising of two storeys and it appears from the tenant's application comprising of living room, kitchen, bathroom, wc and three bedrooms. The property is in the centre of the village and close to local amenities.

## **THE HEARING**

8. Neither party attended the hearing. The tenant's complaint that the landlord had failed to meet the repairing standard is detailed in section 4 of the application where she states the nature of the complaints;-

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6. Extractor fan missing the outside cover;



#### Sitting room

7. Vertical blinds are broken;
8. Some sockets do not work;
9. Carpet leading to kitchen has shrunk;

#### Downstairs Toilet

10. Sink leaks;
11. Toilet does not flush properly;
12. Toilet lid is broken;
13. Bad smell of damp;
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#### Hall & Stairs

15. Front door does not open;
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22. Hot tap on bath broken;
23. Light does not work;
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## THE ACT

9. 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.”*

10. 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

11. The landlord was advised by PRHP letter dated 1<sup>st</sup> July, 2011 that the inspection and hearing would take place on 26<sup>th</sup> July, 2011. The landlord has clearly decided not to participate in this process. This Committee is of the opinion that a landlord cannot obviate the proper application of the statutory repairing standard by simply failing to participate in the process and by failing to allow the Committee access to the property. Such action or inaction by a landlord does nothing more than frustrate the intention of the legislature in relation to the application of the repairing standard. Accordingly, in light of this landlord's failure to participate in this process this Committee must proceed to determine the application before it. The Committee from its external inspection and internal observation (through the ground floor windows) of the property can determine that the kitchen tiles do not meet the repairing standard. However, given the landlord's failure to participate in this process this Committee also draws an adverse inference from this and further determines that the landlord has failed to meet the repairing standard in respect of the remainder of the tenant's application.
12. The Committee having inspected the property insofar as possible, and drawing an adverse inference from the landlord's failure to participate in this process as this Committee considers appropriate in these circumstances, the Committee proceeds to determine the application. The complaints are;-

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#### Bathroom

22. Hot tap on bath broken;
23. Light does not work;
24. Flush button jams.

13. In relation to all of the complaints above, with the exception of complaints 13 and 14, the Committee determines that these items are not in a reasonable state of repair and in proper working order.
14. In relation to complaints 13 and 14 above, the Committee determines that the property is not wind and water tight and reasonably fit for human habitation in respect of these items.

#### **SUMMARY OF DECISION**

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

#### **RIGHT OF APPEAL**

15. 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**

16. 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.

Signed ..... **S Walker**

**Steven P Walker**  
**Advocate & Barrister**

**Chairman**  
**Private Rented Housing Committee**

**12<sup>th</sup> August, 2011**