



**DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE**  
**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE**  
**UNDER**  
**REGULATION 19(4) OF THE PRIVATE RENTED HOUSING PANEL**  
**(APPLICATIONS AND DETERMINATIONS) (SCOTLAND) REGULATIONS 2007**

In connection with

**Property: Flat 1/2, 15 Govanhill Street, Glasgow G42 7PH (the "House")**

**Parties:**

**Gary Honeyman, Flat 1/2, 15 Govanhill Street, Glasgow G42 7PH (the "Tenant")**

**Daya Ram, 49 Cathkin Road, Langside, Glasgow G42 9UJ (the "Landlord")  
(represented by Zahra Malil, KPM Residential Limited, 23 Park Circus Place,  
Glasgow G3 6AP (the "Landlord's Representative"))**

**PRHP Reference PRHP/RP/13/0030**

**DECISION**

The Committee, having attended at the House accompanied by the Tenant, the Landlord's Representative and the Committee Clerk for the purpose of inspection and subsequently having heard representations from the parties at a Hearing, finds that the Landlord has not failed to comply with the duties imposed by Section 14(1) (b) of the Housing (Scotland) Act 2006 (the "**Act**").

**Background**

1. By application dated 3 June 2013 and received on 5 June 2013 the Tenant applied to the Private Rented Housing Panel ("**PHRP**") for a determination 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 that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and in particular that the Landlord had failed to ensure compliance with Section 13 (1)(a), (c) and (d) of the Act which states that
  - (a) the house is wind and watertight and in all respects reasonably fit for human habitation;

- (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.

The Tenant makes the following complaints of disrepair:-

- 2.1 "I contacted KPM Residential by phone on the 27/5/2012, because my neighbour flooded me at 01.30 AM, and reported what had happened. They told me off the landlord of flat 2/2, which I stated you are the landlord's agent and that you have to repair the damage. They said they would send someone out to view my toilet. It took them 2 weeks to come out. They didn't care how my toilet was. I contacted them on the 29/8/2012 by e mail. They came out on 15/03/2013 to paint my ceiling to hide the moss, and replaced my lino which is bumpy, which covers the dampness on the floor near the shower on /3/13.
  - 2.2 My toilet sink is too big for my toilet. My mother finds it hard to go to my bathroom cause she can't get by the large sink which is beside the door as you walk in.
  - 2.3 Shower door floods my lino due to door opening outward while the shower still on as the switch is outside the shower on the wall away from the shower.
  - 2.4 My hall floor stinks of dampness due to the flood on the 27/5/2012. I asked KPM/Bal if I could get a new carpet fitted they came up last week around 19/3/2013 to measure my carpet in the hall. Then I got an e mail (saying no to a carpet).
  - 2.5 No fire door fitted in the living room/kitchen. I feel that for my safety that my own life can be saved if I had a fire. Its just a wooden door with holes that I had to fill in. Useless
  - 2.6 Asked KPM for a new kitchen units. They measured my kitchen and I got told that the landlord is not happy to get replaced at this time. /13
  - 2.7 Lino in the kitchen is total ripped between the kitchen/living room due to having a rip before I moved into the flat. Had to fit floor tiles myself due to no lino.
  - 2.8 No central heating fitted KPM gave me 2 storage heaters to heat my home which cost to (sic) much to run. I use my oven to heat my living room/kitchen as it can get really cold in winter."
3. By letter dated 25 June 2013 the PHRP intimated to the parties that the President of PHRP had decided to refer the application under Section 23(1) of the Act to a Private Rented Housing Committee (the "Committee") and invited the parties to make written representations or request to make oral representation by 9 July 2013.

4. In reply the Tenant referred to his previous written representations and intimated that he wished to attend a hearing.
5. In reply the Landlord's Representative submitted written representations and intimated that the Landlord's Representative wished to attend a hearing on behalf of the Landlord.
6. The Landlord's Representative made the following general representations:-

6.1 "I am writing to respond to the issues regarding **15 Govanhill Street 1/2** and our tenant **Gary Honeyman**.

6.2 I would like to confirm that KPM Residential have offered Gary Honeyman alternative accommodation which has been refused due to the problems he has been experiencing in the property.

6.3 Gary Honeyman has also been unreliable with rent payments, and consistently does not pay his rent, or pays his rent late although he is entitled to benefits. This can be seen in the statement attached, along with the attached correspondence that has been sent to Gary over the years.

6.4 We have attempted to contact the council in order to request rent to be paid straight to KPM, however this request was denied as can be seen in the attached correspondence.

6.5 KPM has been well aware of Gary Honeyman's (sic) issues, and have been attending to (sic) them. Please note, there have been instances where repairs have been severely delayed due to the tenant's non response to our emails and phone calls. This can also be seen in attached correspondence."

7. The Landlord's Representative made the following representations in response to the Tenant's complaints:-

7.1 **"There is no central heating.**

a. He has two storage heaters he was provided by KPM and is forced to use his oven to heat his living room and kitchen as it gets too cold during the winter months.

**Response:** *He has never mentioned this as a problem too (sic) us. We are aware that there is no central heating, however he has never requested us to attend to this problem.*

7.2 **Requests a new carpet in the hallway.**

a. The previous carpet was damaged due to the flood on 27/5/2012, and smells consistently of old dampness and mould

**Response:** *The carpet is damaged, however the landlord is not willing to pay for a carpet until the tenant begins to start paying his rental arrears. His rent payments, as can be witnessed in the account statement attached, are sporadic regardless of the fact that he is entitled to benefits.*

*In order to resolve the rental issues, we have attempted to apply to the council to have rent transferred directly to KPM however as can be seen in the attached correspondence this was not granted.*

**7.3 New kitchen units need to be provided.**

a. Current ones are no longer functional and cannot hold any items. He has had them for over 7 years and they have deteriorated due to wear and tear.

**Response:** *The landlord is not willing to replace this due to the fact that the tenant is still in rental arrears.*

**7.4 Shower consistently floods the toilet floor.**

a. The shower box switch is on the outside of the shower which means that every time the shower is to be turned off, the shower door needs to be opened

b. Lino in bathroom is damaged due to constant flooding.

**Response:** *Problems with the shower buttons have been reported too us and repaired as can be seen in the attached correspondence. Lino in the bathroom has been replaced.*

**7.5 Toilet sink is too big for his toilet.**

a. Wrong size, and is beside the door so makes access to the bathroom difficult.

**Response:** *The landlord is not willing to pay for this as the tenant is still in rental arrears.*

**7.6 Lino in kitchen is totally ripped between the kitchen and the living room.**

a. This is due to the fact the rip was present before he moved into the flat, and over time due to general wear and tear this has deteriorated completely.

**Response:** *The lino in the kitchen has not been reported too us as can be seen in the attached correspondence. We have received reports for the lino in the bathroom which was attended too"*

8. The Landlord's Representative provided a list of repairs completed to the house as well as a statement of rental account from 01/03/2010 to 01/7/2013 and copy correspondence and e mails relating to rental payments/arrears and repairs.
9. By notices dated 14 August 2013 PRHP advised the parties that the Committee who would look at the repair issues raised proposed to make an inspection of the House on 4 September 2013 at 10.00 am and that a Hearing

would take place on the same day at 11.00 am in the PRHP Office at Europa Building, 450 Argyle Street, Glasgow G2 8LH.

10. The Committee comprised the following members:

Mr Jamie Millar, Legal Member;

Mr George Campbell, Surveyor Member;

Ms Elaine Munroe, Housing Member.

11. The Committee attended to inspect the House at 10.00am on 4 September 2013. The Tenant was present and was accompanied by his father, Mr Raymond Honeyman. The Landlord was not present but the Landlord's Representative attended the inspection.

12. Thereafter the Committee held a Hearing at the offices of the PRHP at Europa Building, 450 Argyle Street, Glasgow G2 8LH. The Tenant was present and was accompanied by his father, Mr Raymond Honeyman. The Landlord was not present but the Landlord's Representative attended the Hearing.

#### **Submissions at the Hearing**

13. Oral submissions were made at the Hearing by the Tenant, the Tenant's father and by the Landlord's Representative which essentially repeated the written representations previously made.

14. The Committee explained to the parties that its remit was determine on the basis of the inspection carried out and the representations made whether the Landlord had failed to ensure compliance with Section 13 (1)(a), (c) and (d) of the Act. The Committee explained that it was not concerned with questions of rent payments or rent arrears nor with any omission of the Landlord to carry out work which was an improvement and was not necessary to ensure compliance with Section 13 (1) of the Act.

#### **Findings of Fact**

15. The Committee finds the following facts to be established:-

- The tenancy is an assured tenancy;
- The House had been affected by water penetration from the flat above in 2012;
- The sink in the toilet is large but it was fitted prior to the start of the tenancy and its size does not render the toilet unfit for use;
- It is necessary to open the shower door while the shower is running to reach the on/off switch;
- The hall carpet had been affected by the flood but when inspected no significant traces of damp could be found using a damp meter;

- No significant traces of damp could be found on the bathroom floor or the hall walls using a damp meter;
- There were signs of mould on the ceiling as a result of the water ingress but no damp readings;
- There is no central heating installed in the House;
- There are two electric space heaters which have been provided by the Landlord; the Tenant agrees that these are in working order but states that they are too expensive to use;
- The door to the living room/kitchen is a wooden door and is not a fire door;
- The house is served by a working smoke alarm;
- The units in the kitchen are elderly but serviceable;
- The Tenant has fitted floor tiles between the kitchen and living room which are in good condition but replace any defective linoleum which may have been there.

### **Reasons for Decision**

16. If the House was still damp the Committee would have been concerned about its fitness for habitation (Section 13 (1) (a)) but all readings taken with a damp meter were within acceptable levels. Accordingly the Committee is of the opinion that the continuing issues of the damaged carpet and the mould on the ceiling are cosmetic matters rather than repairing standard issues.
17. The size of the sink in the toilet does not render the toilet unusable and accordingly it cannot be said that the size of the sink renders the House unfit for human habitation (Section 13 (1) (a)) nor that the installations in the House for sanitation are not in a reasonable state of repair and in proper working order (Section 13 (1) (c)).
18. Similarly, the location of the on/off switch for the shower does not render the shower unusable and accordingly it cannot be said that the location of the on/off switch renders the House unfit for human habitation (Section 13 (1) (a)) nor that the installations in the House for sanitation are not in a reasonable state of repair and in proper working order (Section 13 (1) (c)).
19. With regard to the linoleum between the kitchen and the living room the Committee can only form an opinion on what was seen at the inspection. The floor was covered by the floor tiles laid by the Tenant and accordingly the Committee cannot determine whether the linoleum was in a reasonable state of repair.

20. The space heaters provided by the Landlord are in a reasonable state of repair and in proper working order and satisfy the standard of Section 13 (1) (c).
21. The repairing standard in relation to fire safety (Section 13 (1) (f) requires that the House should have satisfactory provision for detecting fires and giving warning in the event of fire. The repairing standard does not require that the House should have a fire door fitted. The House has a smoke alarm fitted which the Tenant acknowledged to be in working order.
22. The Committee accordingly determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
23. The decision of the Committee was unanimous.

### **Right of Appeal**

24. 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**

25. Where such an appeal is made, the effect of the decision 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 will be treated as having effect from the day on which the appeal is abandoned or so determined.

**J Millar**

**Jamie Millar**

**Chairperson**

9 September 2013