



DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE

**STATEMENT OF REASONS FOR DECISION OF PRIVATE RENTED HOUSING
COMMITTEE**

(Hereinafter referred to as "the Committee")

Under Section 24 (1) of the Housing (Scotland) Act 2006

Case Ref Number: PRHP/G44/102/10

In connection with the property at

146 Curtis Avenue, Glasgow, G44 4NP ("the Property"),

Land Register Title Number GLA156135

The Parties

Ms Elaine Hayden, residing at 146 Curtis Avenue, Glasgow, G44 4NP ("the Tenant").

And

Mull Properties Limited per agents, Cairn Estate and Letting Agency, 34 Gibson Street Glasgow, G12 8NX ("the Landlords").

The Committee comprised:-

Mr James Bauld - Chairperson

Mr Alan English - Surveyor member

Mr James Riach - Housing member

Decision

The Committee unanimously decided that the Landlord had failed to comply with the duties imposed by Section 14 (1) of the Housing (Scotland) Act 2006. The Committee accordingly proceeded to make a Repairing Standard Enforcement Order (RSEO) as required by Section 24 (2) of the 2006 Act.

Background

1. By application dated 19 July 2010 the Tenant applied to the Private Rented Housing Panel ("PRHP") for a determination that the Landlord had failed to comply with the duties imposed by Section 14 (1) of the 2006 Act.
2. The application made by the Tenant stated that the Tenant considered that the Landlord had failed to comply with their duty to ensure that the house met the repairing standard and in particular that the house was not wind and water tight and was not in all other respects reasonably fit for human habitation. A detailed list of defects was contained within the application.
3. The Tenant had provided evidence of notification of these defects to the Landlord at the address given in the Tenancy Agreement. Notification had been made via recorded delivery letter to the Landlord's agent on 19 July 2010 and proof of posting of that letter dated 26 July 2010 was produced by the Tenant.

4. The President of the Private Rented Housing Panel decided to refer the application under Section 22 (1) of the 2006 Act to a Private Rented Housing Committee.
5. On 3 August 2010 the Committee served Notice of Referral and in terms of the Act upon the parties. The notice of Referral to the Landlord was served upon his agent at Cairn Estate and Letting Agency, 34 Gibson Street Glasgow, G12 8NX. In terms of Paragraph 13 of the PRHP (Application and Determinations) (Scotland) Regulations 2007, service of any formal communication upon the known agent of the party is deemed to be service upon the party.

The Inspection

6. The Committee inspected the property on the morning 1 October 2010. The Tenant was present during the inspections. The Landlords were neither present nor represented during the inspection.
7. The evidence before the Committee consisted of:-
 - The application form;
 - Copy Tenancy Agreement;
 - Extract of Title from the Land Register;
 - Copy correspondence from Tenant to Landlord of issues of claimed disrepair

Summary of issues

8. The issues complained of in the application by the Tenant can be summarised as follows:-
 - The windows to the property were rotted and were not wind and water tight.

- There was dampness within the kitchen;
- The front door to the property was gaping and was not wind and water tight;
- Internal steps within the property had collapsed causing a hazard;

The Hearing

9. On the conclusion of the inspection, the Clerk to the Committee telephoned the Landlord's agents to ascertain whether the Landlord intended to attend or be represented at the Hearing. The Clerk was advised that the Landlord's agents did not intend to attend the Hearing. The Tenant was informed that the Landlord would not attend the hearing and did not intend to be represented. The Tenant of the property confirmed that she also would not therefore attend the Hearing and was happy for the Committee to proceed to make whatever determination they thought appropriate based upon the evidence which had been gathered.
10. The Committee thereafter held a Hearing in the absence of the parties in order to discuss the evidence and to determine their decision.

Finding of Fact

11. Having considered all the evidence the Committee found the following facts to be established:-
 - (a) The subjects of let comprised an upper cottage flat located within the Kings Park area of Glasgow. These types of flats are well know within the vicinity and are contained within buildings which contain four flats, 2 on the ground floor and 2 on the upper floor. The property is approximately 80 years old and internally the flat consists of a living room, two bedrooms, dining room, hall, kitchen and bathroom. The

living room and dining room have windows which face to the rear of the property. The two bedrooms have windows which face to the front of the property. The bathroom and kitchen have windows which face to the side of the property.

- (b) The bay window within the large bedroom to the front of the property was in a substantial state of disrepair. The exterior sill was rotten and in parts broken. The interior sill and mullions were also suffering from rot. There was a hole in the external window sill.
- (c) The external Window sill in the small front room was also rotten. The bottom rail of that window and the interior sill was also rotten.
- (d) The external window sill in the window in the small back room was rotten.
- (e) The external window sill on the window which was shared between the kitchen and bathroom was also rotten.
- (f) The entrance door to the property consisted of two leaves. There was a gap between the two leaves when the door was closed and the door was not wind and water tight.
- (g) Between the external front door and the flat there is an internal staircase. The second, third and fourth treads of that staircase counting from the bottom upwards had all apparently dropped and appeared to be unstable.
- (h) Within the kitchen, there was some evidence of mould to the wall near the window.

Reasons for Decision

12. The Committee considered the various issues set out above and reached the following conclusions:-

- With regard to the window within the large bedroom to the front the Committee were satisfied that the window was not wind and water tight. The window was substantially affected by rot both externally and internally and there was evidence of water ingress;
- With regard to the external window sills to the windows in the small front room, the small back room and to the kitchen/bathroom window, the Committee were satisfied that the external window sills were affected by rot;
- With regard to the front door, the Committee were satisfied that the door was not wind and water tight and that works were required to remedy this;
- With regard to the internal staircase, the Committee noted that three of the stair treads had dropped and there was clear evidence that these steps were unstable and potentially hazardous;
- With regard to the mould within the kitchen, the Committee were satisfied that this was as a result of minor condensation and did not fail the test set out in the repairing standard.

13. The decision of the Committee was unanimous.

Rights of Appeal

14. A Landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

15. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP of the Committee which made the decision.

Effects of Section 63

16. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.
17. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **J Bauld** Date *22 October 2010*

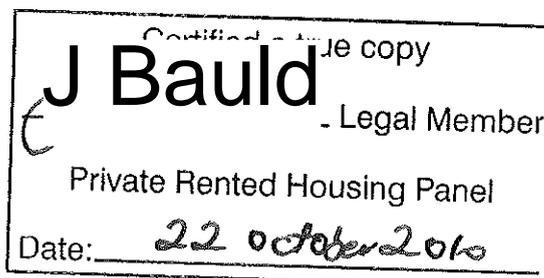
James Bauld, Chairperson

Signature of Witness.. **G Williams** Date *22/10/10*

Name: Gillian Williams

Address: 7 West George Street, Glasgow, G2 1BA

Designation: Senior Court Administrator





Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Case Ref Number: PRHP/G44/102/10

146 Curtis Avenue, Glasgow, G44 4NP ("the Property"),

Land Register Title number:- **GLA156135**

The Parties

Ms Elaine Hayden residing at 146 Curtis Avenue, Glasgow, G44 4NP ("the Tenant").

And

Mull Properties Limited per agents, Cairn Estate and Letting Agency, 34 Gibson Street Glasgow, G12 8NX ("the Landlords").

Notice to Mull Properties Limited ("the Landlords")

Whereas in terms of the decision dated 22 October 2010 the Private Rented Housing Committee have determined that landlords have failed to comply with the duty imposed by Section 14 (1) of the Housing (Scotland) Act 2006 and in particular the landlords have failed to ensure that:-

- a) The House is wind and water tight and reasonably fit for human habitation.

The Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purpose of ensuring that the house concerned

meets the repairing standard and that any damage cause by the carrying out of the works in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the landlords to carry out the following work:-

- To repair or replace the bay window in the large front room to eradicate rot and prevent water ingress;
- To repair and/or replace the window sills or windows within the small front room, small rear room and kitchen/bathroom to eradicate rot and prevent water ingress;
- To carry out repairs to the exterior door to make it wind and water tight;
- To carry out repairs to the stair treads number 2,3 and 4 within the internal staircase to make them safe and stable;

The Private Rented Housing Committee orders that the works specified in this Order must be carried out and completed within the period of 2 months from the date of service of the Notice.

A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified if that decision. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the PRHP or the Committee which made the 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. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **J Bauld** Date *22 October 2010*

James Bauld, Chairperson

Signature of Witness **G Williams** Date *22/10/10*

Name: Gillian Williams

Address: 7 West George Street, Glasgow, G2 1BA

Designation: Senior Court Administrator

Certified a true copy	
J Bauld	____ Legal Member
Private Rented Housing Panel	
Date:	<i>22 October 2010</i>