



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/G42/30/13

Re : Property at Flat 1/2, 34 Battlefield Road, Glasgow G42 9QH ("the house")

Title No: GLA9773

The Parties:-

Anne Louise Grant, Flat 1/2, 34 Battlefield Road, Glasgow G42 9QH ("the Tenant") (care of her agents Shelter, the National Campaign for Homeless People Limited, Breckenridge House, 274 Sauchiehall Street, Glasgow G2 3EH)

Graeme Nisbet, 37 Graffham Avenue, Giffnock, Glasgow G46 6EJ ; and
David Ian Thomas Cassidy, 22 Penneld Road, Glasgow G52 2QG ("the Landlords")

NOTICE TO

Graeme Nisbet and David Ian Thomas Cassidy ("the Landlords")

Whereas in terms of their decision dated 15 July 2013, the Private Rented Housing Committee determined that the Landlords have 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 house meets the repairing standard in that :-

- (a) the boiler in the rear bedroom was not in a reasonable state of repair or in proper working order;
- (b) the installations for the supply of electricity in the house, including the fuse box were not in a reasonable state of repair or in proper working order;
- (c) the windows in the front double bedroom, the bathroom and the right hand unit of the window in the living room were not in a reasonable state of repair or in proper working order and not wind and watertight;

- (d) the joint in the pipework below the toilet cistern in the bathroom was not in a reasonable state of repair;
- (e) the cold water tap of the bath in the bathroom was not in a reasonable state of repair or in proper working order;
- (f) the supply of hot water to the shower or the shower in the bathroom was not in proper working order

the Private Rented Housing Committee now requires the Landlords to carry out such work as is 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:-

- (a) to produce a gas safety certificate for the house, including the boiler installation, from a Gas Safe registered gas engineer;
- (b) to produce a report from a Gas Safe registered gas engineer on any work requiring to be done to the boiler, in particular in respect of the water pressure within the boiler, to ensure its ability to supply hot water to all of the radiators within the house, and to carry out all works, if any, recommended to be carried out in said report;
- (c) to produce to the Committee a domestic electrical installation condition report from an electrician independent of and without a personal or business connection with the Landlords, and who is, or is an employee, partner or director of, a contractor registered with the National Inspection Council for Electrical Installation Contracting (NICEIC), with the said report setting out the works, if any, necessary to put all electrical installations in the house into a reasonable state of repair and into proper working order;
- (d) to carry out all works, if any, recommended in the above electrical installation condition report;
- (e) to refit, repair or replace the double glazed window in the front bedroom, the bathroom and in the right unit of the bay window in the living room so that they are proper working order and a reasonable state of repair and wind and water tight;

- (f) to repair or replace the joint in the pipework below the toilet cistern in the bathroom so that it is in a reasonable state of repair;
- (g) to repair the cold water tap on the bath in the bathroom so that it is in a reasonable state of repair and in proper working order;
- (h) to eliminate the oscillations in water temperature during the operation of the shower in the bathroom whether by repairing or replacing the shower in order it be in proper working order, or by repairing or replacing any element of the water supply or water heating systems of the house in order to put either or both of them into proper working order and to carry out any ancillary works to the bathroom to make good;

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 28 days 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 preceding two pages are executed by David Bartos, Advocate, Parliament House, Parliament Square, Edinburgh EH1 1RF, Chairperson of the Private Rented Housing Committee at Edinburgh on 15 July 2013 before this witness:-

D Bartos

witness

A Veitch

chairperson

ANDREW VEITCH name in full

C/O TERRA FIRMA CHAMBERS⁴Address

PARLIAMENT HOUSE

EDINBURGH

EHI IRF

DEPUTY ADVOCATES' CLERK Occupation



**Decision of Private Rented Housing Committee
under Section 24 (1) of the Housing (Scotland) Act 2006**

Statement of Reasons for Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

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

Case Reference Number: PRHP/G42/30/13

Re : Flat 1/2, 34 Battlefield Road, Glasgow G42 9QH ("the house")

Title No: GLA9773

The Parties:-

**Anne Louise Grant, Flat 1/2, 34 Battlefield Road, Glasgow G42 9QH ("the Tenant")
(care of her agents Shelter, the National Campaign for Homeless People Limited, Breckenridge House, 274 Sauchiehall Street, Glasgow G2 3EH)**

**Graeme Nisbet, 37 Graffham Avenue, Giffnock, Glasgow G46 6EJ; and
David Ian Thomas Cassidy, 22 Penneld Road, Glasgow G52 2QG ("the Landlords")**

The Committee comprised:-

Mr David Bartos - Chairperson
Ms Sara Hesp - Surveyor member
Mr Christopher Harvey - Housing member

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) in relation to the house concerned, and taking account of the evidence led by the Landlords at the hearing, determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006.

Background:-

1. By application received on 20 February 2013, the Tenant applied to the Private Rented Housing Panel ("PRHP") for a determination that the Landlords had failed to comply with the duty to ensure that the house met the repairing standard in section 13 of the Housing (Scotland) Act 2006.

2. In her application the Tenant complained that the landlord had failed to meet the repairing standard in that the house was not wind and watertight due to ill fitting windows which are also difficult to open and close (section 13 (1)(a) and (d) of the 2006 Act); the installations in the house for the supply of electricity and for space heating and heating water were not in a reasonable state of repair and in proper working order (section 13 (1)(c) of the 2006 Act); that the shower was not in proper working order (section 13(1)(c) and (d) of the 2006 Act); that a bath tap, bathroom pipework, wooden bath surroundings and shower provided by the Landlords were not in a reasonable state of repair or not in proper working order (section 13 (1) (d) of the 2006 Act); and that the electric oven in the kitchen was not in a reasonable state of repair nor in proper working order (section 13 (1)(d) of the 2006 Act). Her application related to the matters, except for the shower, which had been raised on her behalf in letters by Shelter to the Landlords dated 4 and 13 December 2012 and 5 February 2013.
3. After the making of the application to PRHP Shelter had raised additional issues of a cold water tap in the kitchen not working and the oven overheating in letters to the Landlords dated 1 March 2013. The complaint concerning the shower was also stated in that letter. At the same time in a letter to PRHP of 1 March 2013 Shelter had applied for these additional matters to be included in the application to the PRHP.
4. The President of the Private Rented Housing Panel decided under section 23 of the 2006 Act to refer the application to a Private Rented Housing Committee. That decision was intimated to the Tenant, to the Tenant's representative Ms Wendy Malloy of Shelter and to the Landlords by letter of the Panel's Clerk dated 13 March 2013 and entitled "Notice of Referral". The Committee comprised the persons stated above. The intimation of the Notice of Referral to the Landlord included a copy of the Tenant's application to the Panel.
5. Following intimation of the Notice of Referral, the Tenant's representative intimated by means of a form dated 15 March 2013 and received by the Panel on 18 March 2013 that she wished to attend a hearing. The Landlords intimated that they did not wish to attend a hearing. They did provide two pages of written representations. An inspection of the house and hearing at the PRHP offices at the Europa Building, 450 Argyle Street, Glasgow was fixed for 17 May 2013 at 10.00 a.m. and 11 a.m. respectively. The date and times were intimated to the Tenant, her representative and to the Landlords by letter dated and sent on 25 April 2013.

The Inspection

6. The Committee inspected the house on 17 May 2013 at 10.00 a.m. The Tenant was present. She was accompanied by Carol Kyle, a support worker from Shelter who indicated that she was present solely to offer support to the Tenant but was not there as a representative. Both

Landlords were present together with a Mr James Nisbet, father of Mr Graham Nisbet. The weather was dry, bright and sunny. The inspection revealed that the house is a flat on the first floor of a late 19th or early 20th century blonde sandstone tenement in the Langside area of the south side of Glasgow, facing the Victoria Infirmary. The Committee carefully inspected the matters which were the subject of complaint. The inspection did not finish until about 10. 40 a.m..

7. At the end of the inspection the Tenant's support worker Ms Kyle had indicated that there would not be any representative from Shelter at the hearing. Ms Malloy had left the organisation and Shelter did not have anyone to attend on behalf of the Tenant. The Tenant stated that she did not wish to attend the hearing.

The Evidence

8. The evidence before the Committee consisted of:-
 - The application form
 - Letters from Shelter to the Landlords dated 4, 12 and 13 December 2012 and 5 February 2013.
 - Copy Form AT5 dated 15 June 2012
 - Registers Direct copy of Land Register title GLA9773
 - Written submission from Messrs Nisbet and Cassidy
 - The oral evidence of Graeme Nisbet
 - The oral evidence of David Cassidy
 - Copy letter from the Landlords to the Tenant dated 10 May 2013
 - Copy letter from PRHP to the Landlords dated 8 May 2013

The Hearing

9. At the conclusion of the inspection the Committee held a hearing within the PRHP offices. Given the conclusion of the inspection at about 10. 40 a.m. the hearing commenced at about 11. 20 a.m.. Neither the Tenant nor any representative appeared at the hearing. Both Landlords appeared at the hearing accompanied by Mr James Nisbet, the father of one of the Landlords. At the hearing the both Landlords confirmed to the Committee that they wished Mr Nisbet senior to act as their representative at the hearing. Mr James Nisbet agreed to this and the Committee had no difficulty with it. During the course of the hearing Mr Nisbet, senior, put forward the evidence of the two Landlords in relation to various factual matters that arose.
10. By letter of 1 March 2013 to the PRHP the content of which was intimated to the Landlords by letter dated 8 May 2013, but which was not received by the Landlords (due to errors in posting) until 16 May 2013, Shelter applied on behalf of the Tenant for amendment of the application to include the items of the kitchen tap and the overheating oven. At the hearing Mr Nisbet senior indicated that the Landlords had no objection to

the proposed amendment. The Committee allowed the amendment of the application to include those items.

11. With regard to the oven it was submitted that the oven had been replaced new during the tenancy. The Landlords' written submission was referred to in which the Landlords stated that the scorch marks had been present at the date of the Tenant's entry. Mr G. Nisbet confirmed that the oven had been replaced at the end of June or September 2012: he was vague on the date of replacement. It was unclear whether the scorch marks had been present at the date of the Tenant's entry. He said that when she had taken entry she had complained that the oven door did not open. He said that the damage to the knobs would not have been caused by the overheating of the oven. Mr Cassidy said that the bubble marks on the knobs had been caused by the Tenant leaving the oven door open. Mr G. Nisbet spoke to the difficulties of obtaining access in March 2013 and that in March a tradesman had attempted to arrange access but had arrived at the main door to the tenement, pressed the buzzer but not been allowed in. On his evidence the landlords had last visited the premises in late November or early December 2012 when they had replaced a shower screen in the bathroom, replaced the hob, and the cold water tap in the kitchen had been fixed by a plumber. The last tradesman who had been able to obtain access had been a Scottish Gas engineer on 14 or 15 December 2012.
12. With regard to the boiler Mr Cassidy said that they had been informed by letter about 2 days before the hearing that the boiler required to be serviced. They had been paying £ 14. 99/month for boiler servicing and the service was due. He was unable to comment on whether the Landlords had a gas safety certificate. Mr G. Nisbet thought they did not have such a certificate. He was unable to say when the boiler had last been serviced. Neither he nor Mr Cassidy had spoken to the engineer who had been called out to the boiler in December 2012.
13. The Landlords' representative, Mr Nisbet, senior, accepted that there were problems with the windows. The difficulty had been in arranging access to deal with them. He lodged and read out a letter from the Landlords dated 10 May 2013 to the Tenant setting out their attempts to arrange access with her.
14. Mr G Nisbet stated that he had fitted a new shower in November 2012. The oscillating temperatures had existed before the existing shower had been fitted. Mr Nisbet, senior submitted that the Landlords accepted that there was a problem with the shower temperature. With regard to the bath cold water tap Mr Cassidy said that during the Committee's inspection once it was running he was able to close it with extra pressure. Mr Nisbet senior accepted that there was a problem with the wood panelling around the toilet adjacent to the bath but that it was unclear what had to be done as access had been allowed only to-day. He also submitted that there was

- no leak at the bottom of the toilet cistern, claiming that it was due to condensation.
15. Mr G Nisbet spoke to the Tenant having installed a tumble dryer in the kitchen the electric demand of which (2kW drawing a current of 10 amps) would if in operation at the same time as a washing machine, oven, fire in the living room could give rise to an electric current sufficient to cause a 20 amp fuse to trip. He said that he could not be sure of this without testing but it was a possibility. The fact that it tripped suggested that it was in proper working order. Mr Nisbet senior submitted that the load which the fuse box could take was sufficient to meet current standards. With regard to the Tenant's related complaint of flickering lights in the hall and kitchen Mr G. Nisbet was unable to offer any explanation of the cause. They had not flickered during the inspection.
 16. Mr Nisbet senior spoke at length about the difficulties for the Landlords in obtaining access and that rent had been withheld by the Landlords. The Committee indicated to him that access was not something that was in issue in the present proceedings.
 17. The Committee accepted that there had been attempts made by the Landlords to gain access to the house as evidenced by their written representations which were founded on at the hearing. However Committee found it inexplicable why the Landlords were unable to state whether the house had a gas safety certificate, nor when and by whom the boiler had last been serviced. Mr Cassidy for example was prepared to say that they had been informed shortly before the hearing that the boiler required to be serviced but was unable to say whether they had a gas safety certificate or not. He also speculated that the Tenant's misuse of the oven may have damaged its knobs without any proof that that was the case. Equally Mr Nisbet speculated as to the cause of the tripping of the fuses without any proof that multiple use of appliances was the cause. In short both Landlords were prepared to speculate without any basis for the speculation. For all of these reasons the Committee found that the evidence of the Landlords in respect of the oven, boiler, electricity issues was unreliable and could not be accepted.

Direction

18. Following the hearing the Committee wished to obtain further evidence concerning the allegations relating to the electrical system, the shower with fluctuating heat levels, and the gas fired boiler with unexplained losses of pressure. It therefore issued a direction dated 24 May 2013 to the parties directing the Landlords to produce a domestic electrical installation condition report from an independent electrician who was a NICEIC registered contractor and to produce a gas safety certificate for the house including the boiler installation from a Gas Safe registered gas heating engineer. No response has been received from the Landlords to the Direction.

Findings of Fact

19. Having considered all the evidence, including their inspection, the Committee found the following facts to be established:-
- (a) On or about 15 June 2012 the Tenant entered into a lease of the house from the Landlords. The Tenant continues to occupy the house under the Lease.
 - (b) The house is first floor flat in a blonde sandstone tenement from the late 19th or early 20th century in the Langside area of Glasgow opposite the Victoria Infirmary. It comprises a hallway, a front bedroom, living room, kitchen, rear bedroom and bathroom. It has gas central heating with the boiler in the rear bedroom. It has double glazing throughout.
 - (c) By letter dated 4 December 2012 Shelter notified the Landlords that the heat from the oven appeared to be scorching kitchen units, the cold tap in the kitchen was not working properly, the windows in the living room and bedroom were not secured properly, had gaps and were draughty, and that the pressure in the boiler was too low preventing the central heating system from heating the house. By letters dated 12 and 13 December 2012 Shelter intimated to the Landlords that the house no longer had heating or hot water. The Landlords arranged for a gas engineer to attend the house who reported to the Tenant (but not the Landlords) that the boiler was old and needed a full service. Following advice from the engineer the Tenant was able to operate the boiler to provide heat and hot water but continued to have difficulties with drops in pressure. This was intimated to the Landlords by Shelter's letters of 5 February 2013 with additional defects said to be bath taps being difficult to turn off when on, wood decay around bath, small leak behind toilet, and the electrical fuse box tripping constantly. The Landlords have not carried out any of the work to the items complained of to the Committee. The Landlords have had difficulty in arranging access to the house with the Tenant. There is no gas safety certificate for the house.
 - (d) As at 17 May 2013, being the date of the inspection, in the kitchen both taps on the sink are working properly. The oven in the kitchen was installed by the Landlords during the course of the current tenancy. It has bubble marks on one of the control knobs. To the right of it is a corner kitchen unit with plastic-lined white doors. The door of the unit nearest the oven has raised plastic lining and a brown scorch mark adjacent to the oven. There is no warping or other damage visible inside the corner unit next to the oven.
 - (e) Within the front bedroom there was a single tilt and turn style double glazed window. Upon tilting inwards there is about a 2 cm gap between the window frame and the bottom of the window. The bottom of the window touches the sill. Upon closing the window from the tilted

position at the bottom left corner of the window a gap of about between 1 and 2 cm between the fixed window frame and the window remains. Upon closing the handle is stiff and cannot be moved freely into the closed position.

- (f) Within the living room, there is a bay window with double glazing of the tilt and turn type. Upon closing the right hand unit of window from the tilted position a greater than 1 cm gap remains between the window and the fixed window frame over the top third or so of the window. The handle is stiff and cannot be turned so that it points fully down and in the closed position. Within the bathroom the tilt and turn window suffers from the same defect as in the living room. Upon "closing" a gap remains between the window and the fixed window frame over the top half of the window.
- (g) Off the hallway in a wall cupboard was a fuse box. The fuses within it trip frequently upon use of kitchen appliances such as the tumble dryer, washing machine or oven. The lights in the hall and kitchen flicker regularly for no apparent reason. No electrical installation condition report has been produced as sought in the Direction issued by the Committee on 24 May 2013.
- (h) In the rear bedroom there was a Vaillant boiler for the gas central heating. The control knobs were at maximum setting. The liquid crystal display showed 65 degrees. The pressure gauge showed pressure of 0.5 bar.
- (i) In the bathroom there was a bath with painted wooden panelling around it. The panelling appeared in good condition. Adjoining the bath panelling the panelling continued to cover piping along the edge of the wall and below the toilet cistern. The panelling had not been cleaned. Neither the panelling adjacent to the bath nor that adjacent to the wall and toilet had any rot. Below the toilet cistern was a pipe with a join. The join had been sealed over with old looking masking tape. It was wet to touch and dirty.
- (j) Over the bath was an electrically operated shower. At a setting of 6 on a scale of 10 going from cold to hot, the shower continued to oscillate between hot and cold water when running for over a minute. The shower had been installed by the Landlords during the current tenancy. The problem of oscillating hot and cold water from the shower existed before the installation of the current unit.
- (k) When an attempt was made to turn off the cold water tap by relaxed hand pressure the water continued to run. Only upon the application of hard pressure to turn the tap further did the water stop running.
- (l) In the rear bedroom there was a Vaillant boiler for the gas central heating. The control knobs were at maximum setting. The liquid crystal display showed 65 degrees. The pressure gauge showed pressure of

0. 5 bar. No gas safety certificate has been produced covering the boiler.

(m) That none of the above defects have been repaired or attended to.

Reasons for Decision

20. In the kitchen the main issue was whether the oven was in a reasonable state of repair and in proper working order. There was nothing in appearance of the the oven appliance itself that indicated to the Committee that it was not in proper working order. It appeared to be in a relatively new condition, which was consistent with it having been installed in 2012 after the commencement of tenancy. There was no evidence linking the scorching marks on the units with the oven that the Committee saw. For all that the Committee knew, these marks might have been caused by a previous oven. In these circumstances the found that it was not proved that the oven was not in a reasonable state of repair or in not in proper working order. There was therefore no failure to comply with the repairing standard in section 13(1)(d).
21. In her application (as amended) to the PRHP the Tenant also mentioned a defect in the cold water tap in the kitchen. It was accepted by the Tenant during the inspection that this had been repaired by the Landlord. The Committee found no defect in the tap in question. On this basis the Committee find it not established that the tap is not in proper working order or in a reasonable state of repair and there to be no failure to comply with the repairing standard in section 13(1)(c) or (d).
22. Was the boiler in a reasonable state of repair and in proper working order ? The Committee accepted and did not understand the Landlords to dispute, that the boiler suffered from loss of pressure. There was no other apparent cause for this other than the presence of some defect within the boiler. There was inconsistent evidence from the Landlords about the servicing of the boiler. In their 2 page written representation to the Committee they asserted that the boiler had been serviced by an accredited contractor with Gas Safe accreditation on 13/12/12 who had advised that the boiler might have to be manually reset should pressure drop and that this was a routine, straightforward and safe procedure. In their evidence to the Committee, however both Landlords said that they had not spoken to the called out engineer. When asked about the servicing of the boiler, Mr G. Nisbet was unable to say when the boiler had last been serviced and instead referred the committee to a gas engineer turning up in March 2013 which he described as a "call out" and claimed that there had been servicing but without giving any details of time or any report back. Mr Cassidy was equally unable to say when there had last been a service. He claimed that one was due imminently under a boiler servicing contract in terms of a letter received days before the hearing. The Landlords appeared to confuse the servicing of a boiler with a call-out on a particular issue. Neither was able to say when a full service had last

occurred or the outcome of such a service. Neither Landlord was able to say whether the Landlords had a gas safety certificate and Mr G. Nisbet doubt that they did. That is something that one would expect responsible Landlords to obtain upon a servicing of the boiler. The Landlords had been requested to advised on the most recent gas safety check in Shelter's letters to them of 5 February 2013 but were still unable to do so. Given the inconsistency and vagueness of the evidence about the servicing of the boiler and the obtaining of a gas safety certificate and subsequent failure of the Landlords to produce a gas safety certificate in response to the direction of the Committee, the Committee inferred that boiler was not in a reasonable state of repair nor in proper working order. It follows that in this respect the Committee concluded that the house did not meet the repairing standard in section 13 (1) (c) of the 2006 Act.

23. The Committee considered whether the electrical system of the house was in a reasonable state of repair and in proper working order, given the flickering of the lights and the tripping of the fuses. The Landlords could offer no explanation of the former and suggested that the latter was caused through an overload of current through the concurrent use of appliances. However there was no evidence that this was the actual cause. The Committee was uncertain as to the causes of these events. For that reason it directed the Landlords to produce an electrical installation condition report. No report, was however produced. On the basis of the non-production of the report, and on the basis that lights do not normally flicker nor fuses trip, the Committee concluded that the installations for the supply of electricity throughout the house were not in a reasonable state of repair and in proper working order and fell below the repairing standard in section 13 (1) (c) of the 2006 Act.
24. One question was whether the windows complained of were in a reasonable state of repair and in proper working order. The windows in the front bedroom, living room and bathroom suffered from the defects set out in the findings in fact. They were susceptible to draughts. They were not wind and watertight. They were not in a reasonable state of repair and not in proper working order. All of these windows and frames fell below the repairing standard in section 13 (1) (d) of the 2006 Act. Furthermore these windows rendered the house not wind and water tight. Accordingly it fell below the repairing standard in section 13 (1) (a) of the 2006 Act.
25. The Committee considered the state of the bathroom. Firstly was the wooden panelling around and adjacent to the bath in a reasonable state of repair ? It had been claimed that it was rotten. The Committee found no evidence of rot. Its findings on this issue are set out above. In the circumstances it was not established that it was not in a reasonable state of repair. Secondly, was the toilet plumbing an installation for sanitation or fixture or fitting not in a reasonable state of repair and in proper working order ? The Committee found the join in the pipe below the toilet cistern to be wet and taped up by a dirt covered masking tape. It was submitted for the Landlords that the wetness had been caused by condensation but there was no evidence to support this. The Committee inferred that the

pipework below the cistern was not in a reasonable state of repair and therefore fell below the repairing standards in section 13(1)(c) and (d) of the 2006 Act. Thirdly were the bath taps not in a reasonable state of repair or in proper working order? The Committee found no defect with the hot water tap. The cold water tap could be opened readily to allow water to flow. Upon closing the tap with a view to stopping the flow, turning the tap with relaxed hand pressure did not terminate the flow. The Committee accepted that additional hand pressure to a turn of the tap would turn off the flow. However a properly working tap should not require that amount of pressure from the hand. On this basis the Committee concluded that the cold water tap at the bath was not in a reasonable state of repair nor in proper working order and therefore fell below the repairing standards in section 13(1)(c) and (d) of the 2006 Act.

26. Was the shower in proper working order and in a reasonable state of repair? Given that the water emitted by showers does not normally oscillate in temperature without manual regulation once the hot water has come into the shower head, the Committee concluded that either the shower or the installation for heating water or the supply of such water was not in proper working order and the house therefore fell below the repairing standard in section 13(1)(c) or (d) of the 2006 Act.
27. The Landlords have been aware of the defects from Shelter's various letters in 2012 and 2013. No work to deal with any of the said breaches of repairing standard was carried out within a reasonable time of the Landlord being aware that work was required to remedy said breaches. While the Landlords have had difficulty in obtaining access to the premises, the 2006 Act does not allow that to be an exception to the duty under section 14 of the 2006 Act to comply with the repairing standard under section 13. If this difficulty continues there may be other court-based remedies available to the Landlords.

Decision

28. The Committee determined that the Landlord had failed to comply with the duty imposed by section 14 (1) (b), of the Act in relation to the failure of the house to meet the repairing standard as stated above.
29. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24 (2). The decision of the Committee was unanimous.

Rights of Appeal

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

- 31. Unless the lease or tenancy between the parties has been brought to an end, the appropriate respondent in such appeal proceedings is the other party to the proceedings and not the Committee which made the decision.

Effects of Section 63 of the 2006 Act

- 32. Where such an appeal is made, the effect of this decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.
- 33. 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.

D Bartos

SignedDate: 15 July
2013.....

David Bartos, Chairperson

Signature of Witness... **A Veitch**Date... **15.7.13**

Name of witness: **ANDREW VEITCH**

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PARLIAMENT HOUSE
EDINBURGH, EH1 1RF**

Occupation of witness: **DEPUTY ADVOCATES' CLERK**