

**Repairing Standard Enforcement Order**

**Ordered by the Private Rented Housing Committee**

**Case reference number : PRHP/G52/64/13**

Re:- Property at 43 Hartlaw Crescent, Glasgow, G52 2JJ ("the property")

**Land Register Title No: GLA156173**

The Parties:-

Mr Abihi Charles Yakou, residing at Property at 43 Hartlaw Crescent, Glasgow, G52 2JJ ("the tenant")

And

Mr David Stewart, Rangers Football Club plc, Ibrox Stadium, 150 Edminston Drive, Glasgow, G51 2XD ("the landlords")

**Notice to Mr David Stewart**

Whereas in terms of the decision dated 13th August 2013 the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular the landlords had failed to ensure that:-

- (a) the house is wind and watertight and in all respects reasonably fit for human habitation
- (b) 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

The Private Rented Housing Committee now requires the landlords 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 caused by the carrying out of the works in terms of the order is made good.

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

- To carry out repairs to the shower and in particular to restore a working and functioning shower head to render the shower in a state of reasonable repair and in proper working order; and

- To repaint the bathroom ceiling to include within said work removal of existing flaking paint and painting to a reasonable standard by a reasonably competent tradesman.

The Private Rented Housing Committee orders that the works specified in this order must be carried out within two months of the date of this Order

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. 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 or 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**  
James Bauld, Chairperson

Date... 13 August 2013

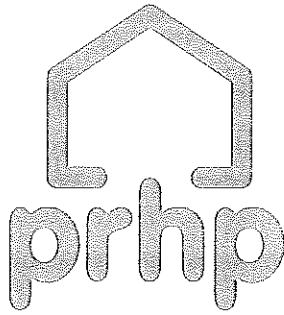
Signature of Witness... **G Williams**

Date... 13 / 8 / 13

Name: GILLIAN WILLIAMS

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

Designation: SENIOR COURT ADMINISTRATOR.



**Determination by Private Rented Housing Committee**

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

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

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The Parties:-

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And

Mr David Stewart, Rangers Football Club plc, Ibrox Stadium, 150 Edminston Drive, Glasgow, G51 2XD ("**the landlords**")

**The Committee comprised:-**

Mr James Bauld	- Chairperson
Mr Kingsley Bruce	- Surveyor member
Mr Scott Campbell	- Housing member

**Decision**

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

**Background**

2. By application dated 19<sup>th</sup> March 2013, 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)(b) of the 2006 Act.

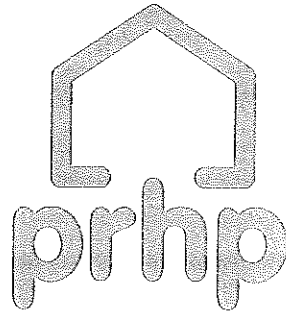
3. In the application made by the tenant, the tenant stated that he considered that the landlord had failed to comply with his duty to ensure that the house met the repairing standard and in particular that the landlord had failed to ensure that the house was wind and watertight and in all other respects reasonably fit for human habitation. In particular the tenant alleged that the property was affected by dampness, condensation, black mould and that the shower fittings within the bathroom were not working.
4. The tenant subsequently provided further written information to the PRHP.
5. By letters dated 18<sup>th</sup> April 2013, the President of the PRHP intimated a decision to refer the application under Section 22(1) of the 2006 Act to a Private rented Housing Committee. By letters dated 20<sup>th</sup> June 2013 the Committee served notice of referral under and in terms of the 2006 Act on both the landlord, the tenant and the tenant's agent indicating that an inspection hearing will take place on 11<sup>th</sup> July 2013 at 10 am.
6. The Committee inspected the property on the morning of 11<sup>th</sup> July 2013. The tenant was present during the inspection. The landlord was neither present nor represented. Prior to the hearing the landlord had sent an email dated 8<sup>th</sup> July to the Clerk of the Committee setting out written representations. The landlord had also previously provided written representations in response to the letters intimating the referral to the Committee.
7. Following the inspection of the property the Committee held a hearing at the offices of the PRHP in Glasgow. The tenant was present during the hearing. The landlord was neither present nor represented.
8. During both the inspection and the hearing, the tenant was assisted by an interpreter Ms Madeline Hilley. The committee wished to place on record their appreciation of the assistance provided to the committee during the inspection and the hearing by the interpreter.

### **Summary of Issues**

9. The issues complained of by the tenant in his application before the Committee relate to complaints that the property is subject to dampness and to condensation and to a complaint that the shower within the property was not functioning.

### **Findings in Fact**

10. Having considered all the evidence the Committee found the following facts to be established:-
  - (a) The subjects of let comprise of a traditional upper cottage flat in a two storey four in a block building. The building is constructed of brick or stone with a tiled roof. The exterior walls had been rough casted. Internally the flat consisted of a hall, living room, three bedrooms, kitchen and bathroom. The windows throughout the property were UPVC framed double glazed units. The property had a gas central heating system. The property has garden ground to the side and rear of the property. The property is located in a residential area and is close to local amenities including shops and schools. It is reasonably placed for public transport facilities.
  - (b) Throughout the property there was evidence of mould caused by condensation. In particular black staining was noticed on walls in the living room, the two front bedrooms, the back bedroom, the small kitchen and the bathroom. However there was no indication of ongoing structural dampness. Protimeter readings taken at the time indicated that there was no ongoing dampness and that the underlying areas were dry.
  - (c) Within the bathroom, it was noted that the head of the shower had been removed and the shower pipe had been capped. It was also noted within the bathroom that the ceiling paint was flaking and coming loose.



### **The Hearing**

11. At the hearing the tenant was present. He was questioned by members of the committee with regard to the state of repair of the house. His answers were interpreted and translated by the interpreter.
12. The tenant indicated that he had had significant problems with the dampness and the mould throughout his time in the tenancy. The tenancy had commenced in September 2012. He had regularly reported the problem to his landlord. He had also undertaken some work himself in an attempt to resolve the dampness.
13. He confirmed that the house was occupied by himself, his wife, and his five children. He had four sons and one daughter. The four sons occupied the main front bedroom, Mr Yakou and his wife occupied the second front bedroom and his daughter occupied the rear bedroom. Mr Yakou denied that he had ever refused access to the landlord to carry out repairs.
14. Mr Yakou indicated that he had complained to the landlord at one point that the shower cap was continuing to run despite an attempt to turn it off. Upon indicating that to the landlord, the landlord sent workmen who simply stopped the flow of water from the shower, removed the shower head and placed a cap upon it rendering the shower unusable. They made no attempt to repair the tap.

### **Reasons for Decision**

15. The committee considered the issues of disrepair set out above and discussed them after the hearing in the absence of the tenant and the other parties. The Committee had regard to all the evidence which they had gathered at the inspection and the hearing and also all of the information and the written submissions provided by the parties. The committee concluded that the damp patches within the property did not indicate an ongoing problem. The underlying areas were dry.
16. The Committee however were satisfied that the shower was no longer in a reasonable state of repair or in proper working order. The Committee accordingly felt that this failure constituted a clear breach of the repairing standard. Further the Committee took the view that the ceiling in the bathroom required repainting. The paint was flaking and was unsightly and also demonstrated a property which was not reasonably fit for human habitation.
17. The committee accordingly determined to make an RSEO as required in terms of Section 24(2) of the Act.
18. The decision of the committee was unanimous.

### **Effects of Section 63**

5. 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.

6. 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**  
James Bauld, Chairperson

Date *13 August 2013*

Signature of Witness **G Williams**

Date *13/8/13*

Name: *GILLIAN WILLIAMS*

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

Designation: *SENIOR COURT ADMINISTRATOR.*