

## **Repairing Standard Enforcement Order**

**Ordered by the Private Rented Housing Committee**

**Case reference number : PRHP/G33/126/10**

Re:- Property at 75 Loretto Street, Carntyne, Glasgow, G33 3BX ("the property")

### **The Parties:-**

**Mr Ian Allan residing at 75 Loretto Street, Carntyne, Glasgow, G33 3BX**  
**("the tenant")**

**and**

**Mr Stephen McCullagh, residing at 105 Gartcraig Road, Glasgow, G33 2RY**  
**("the landlords")**

### **Notice to Mr Stephen McCullagh**

Whereas in terms of the decision dated 16 February 2011 the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed by Section 14(1) of the Housing (Scotland) Act 2006 and in particular the landlord had failed to ensure that:-

- (a) 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,
- (b) 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 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 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 landlord to carry out the following work

- To carry out an inspection of all gas fittings and appliances within the property in accordance with the terms of the Gas Safety (Installation and Use) Regulations 1998 and to produce appropriate certification in terms of said Regulations.

The Private Rented Housing Committee orders that the works specified in this order must be carried out within 28 days 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..... *16 February 2011*

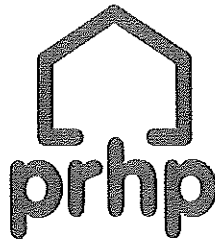
Signature of Witness. **G Williams** /

Date..... *16 / 2 / 11*

Name: Gillian Williams

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

Designation: Senior Court Administrator



## **Determination by Private Rented Housing Committee**

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/G33/126/10

Re:- Property at 75 Loretto Street, Carntyne, Glasgow, G33 3BX ("**the property**")

Land Register Title Number:- **GLA47879**

The Parties:-

Mr Ian Allan residing at 75 Loretto Street, Carntyne, Glasgow, G33 3BX ("**the tenant**")

And

Mr Stephen McCullagh, residing at 105 Gartcraig Road, Glasgow, G33 2RY ("**the landlord**")

### **The Committee comprised:-**

Mr James Bauld	- Chairperson
Mr Michael Links	- Surveyor member
Mr Tom Keenan	- 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 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:-**

1. By application dated 19 September 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 his duty to ensure that the house met the repairing standard and in particular that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water were not in a reasonable state of

repair nor in proper working order. 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 sent on 20 September 2010. Proof of posting of that letter was produced by the tenant.
4. The President of the Private Rented Housing Panel decided to refer the application to a Private Rented Housing Committee ("a Committee").
5. On 17 November 2010, the Committee served notice of referral upon the landlord and tenant. Appropriate notices were sent to the landlord and tenant at the appropriate addresses. The notice proposed that an inspection and hearing would take place on 9 December 2010. Subsequently that inspection and hearing required to be postponed and it eventually took place on 27 January 2011. Appropriate notice of the amended date was also sent to the landlord and tenant.

### **The Inspection**

6. The Committee inspected the property on the morning of 27 January 2011. The tenant was present during inspection. The landlord's was neither present nor represented during the inspection.

### **Evidence**

7. The evidence before the Committee consisted of:-
  - Application form;
  - Copy Tenancy Agreement
  - Extract of title from the Land Register
  - Copy correspondence from tenant to Landlord
  - Copies of various submissions sent to the Panel

### **Summary of issues**

8. The issues complained of in the by the tenant can be summarised as follows:-
  - Problems with the boiler and lack of servicing
  - Leak to the toilet
  - General dampness within the property

During the course of inspection the tenant indicated that the above matters were the matters which remained outstanding. The tenant agreed that leak to the toilet which was mentioned in his application had now been fully repaired.

### **The Hearing**

9. On the conclusion of the inspection, the hearing took place at the offices of the Private Rented Housing Panel. The landlord was not present nor represented at the hearing. The tenant was present at the hearing.
10. During the hearing, the tenant confirmed to the Committee that the leak in the toilet had now been resolved and that was no longer a matter which he required the Committee to determine.
11. The tenant was questioned with regard to his complaint that the property was affected by dampness. The Committee members asked him whether the dampness that he was complaining of was simply caused by condensation which could be resolved by him by

more effective use of the heating and ventilation within the property. The tenant confirmed that he did not have the same problem during the summertime.

12. The tenant was then questioned with regard to the problem with the boiler. He indicated that it had been suffering from an intermittent fault when it would regularly cut out and stop working. He indicated that he had lived in the property for over five years and was unaware of any annual gas safety inspection being undertaken by the landlord. On being questioned he had no knowledge of any "Gas Safety Certificate" ever being issued to him or produced to him. He indicated that he had a gas cooker and a gas central heating system within the property. He confirmed that he still wished the Committee to make a determination with regard to the question of dampness within the property and the faults with the gas boiler.
13. The hearing was thereafter concluded and the Committee made their determination.

### **Findings of Fact**

14. Having considered all the evidence the Committee found the following facts to be established:-
  - a) The subjects of let comprised a lower flat in a 4 in a block building. The property consisted of a living room, two bedrooms, hall, bathroom and kitchen. The property is approximately 70 years old.
  - b) There was evidence of condensation dampness within the 2 bedrooms. Damp meter readings were taken which indicated that there was no significant problem with dampness.
  - c) The leak to the toilet bowl had been fixed between the application being lodged and the date of the inspection.
  - d) The gas boiler was located within the kitchen of the property. It had an intermittent fault where it would cut out. The Committee were concerned at the lack of the relevant Safety Certificate in terms of the Gas Appliances (Installation and Use) Regulations 1998. Those regulations require landlords to carry out inspections on all relevant gas fittings and gas appliances at intervals of not more than 12 months. Landlords are also required to ensure that a record is kept in respect of any appliance which is so checked, retain for a period of 2 years and that a copy is provided to the tenant. In the absence of such certification, the Committee were concerned that the intermittent fault in the boiler which had been raised by the tenant may recur.

### **Reasons for Decision**

The Committee accordingly determined to make a RSEO in respect of the fault with the gas boiler. In the first instance, the Committee took the view that the appropriate method of dealing with this potential repair was to ordain that the landlord carry out an appropriate inspection under the Gas Safety (Installation and Use) Regulations 1998 and produce the relevant certificate required by those Regulations. The Committee took the view that if there was a fault to the boiler, no engineer, acting in terms of those Regulations, would be able to issue the appropriate certificate without any necessary repairs being effected.

15. The decision of the Committee was unanimous.

### **Rights of Appeal**

16. 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.
17. 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**

18. 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.
19. 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 ..... *16 Febur 2011* .....

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

Date ..... *16 / 2 / 11* .....

Name: Gillian Williams

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

Designation: Senior Court Administrator