



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

Reference Number: PRHP/RP/16/0200

**Re: Property at Flat ½, 15 Govanhill Street, Glasgow, G42 7PU (“the
Property ”)**

The Parties:-

**Mr. Gary Honeyman, formerly residing at Flat ½, 15 Govanhill Street,
Glasgow, G42, 7PU (“the former Tenant”)**

**Mrs. Mrs Daya Ram, 42 Camphill Avenue, Glasgow and Mr Surinder Kaur, 10
Lynedoch Crescent, Glasgow, G3 (“the Landlords”)**

Decision

The Committee, having made such enquiries as it saw fit for the purpose of determining whether the Landlords have complied with the duty imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the property concerned and, taking account of the evidence submitted on behalf of the Landlords together with the application by Tenant, determined that the Landlords have complied with the duty imposed by Section 14 (1) (b) of the Act.

The Committee consisted of:-

Patricia Anne Pryce	-	Chairperson
Kingsley Bruce	-	Surveyor Member

Background

1. By application comprising of all documents received on/between 11 May 2016 and 27 May 2016, from the Tenant, the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlords had failed to comply with the duties imposed by Section 14 (1) (b) of the Act.

2. The application by the Tenant stated that the Tenant considered that the Landlords had failed to comply with their duty to ensure that the property meets the repairing standard and the Tenant brought forward the following breach:-

That the property has a significant problem with condensation dampness caused by poor ventilation.

The Tenant considers that the Landlords are in breach of their duties under the Housing (Scotland) Act 2006 in relation to the repairing standard and in particular the Landlords have failed to ensure:-

- (i) The house is wind and watertight and in all other respects reasonably fit for human habitation.**

3. By Minute dated 31 May 2016, the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 23(1) of the Act to a Private Rented Housing Committee.

4. On 14 June 2016, the Private Rented Housing Committee ("the Committee") wrote to the parties to advise that the Committee intended to inspect the property on 25 July 2016 at 10.00 hours. The letter further confirmed that a Hearing had been arranged in relation to the application, which Hearing would be held in Wellington House, 134-136 Wellington Street, Glasgow, G2 2XL commencing at 11.30 hours. Finally, the letter confirmed that any written submissions had to be received by the Committee by 5 July 2016.

5. On 26 June 2016, the Committee issued a Minute of Continuation under Schedule 2 Paragraph 7(3) of the Housing (Scotland) Act 2006 as the Committee had received confirmation from the Tenant that the tenancy of the house had been terminated, therefore the Tenant was to be treated as having withdrawn his application under Section 22(1) of the Act. The Committee decided to continue the determination of the application on public interest grounds as the property suffered from severe dampness which could raise health and safety concerns of the occupants.

The First Inspection and Hearing

6. The Committee attended at the property on 25 July 2016 at 10 am for the purposes of inspection of the property. The Landlords were not present at the property but they were represented by Mr Kemil Olas, employee of KPM Residential Limited, 23 Park Circus, Glasgow, G3 6AP who provided access to the property for the purposes of the inspection.

The Committee noted that the property was a two apartment flat consisting of an open plan living room/kitchen, a bedroom and a toilet/shower room. The property is located on the first floor of a traditional blond sandstone tenement.

At the inspection, the Committee noted that the property was unoccupied and had been completely redecorated with new carpeting and flooring having been laid in the open plan living kitchen area and the hallway two weeks prior to the inspection. The Committee noted from Mr Olas that the UPVC windows had been installed approximately two years previously but did not contain any fixed vents. The Committee noted that there was evidence of condensation around the top of the shower unit located in the W.C. The Committee also noted that there were two extractor fans, one located in the ceiling of the kitchen area and the other located in the ceiling of the W.C. The Committee noted that these did not appear to operate particularly powerfully and that there was no obvious means of external extraction for these fans. Mr Olas confirmed that both fans had been replaced at the same time as the property had been redecorated, namely, about two weeks prior to the present inspection.

The Committee then attended the hearing which had been set down to take place on the same day at 11.30 am within Wellington House, 134-136 Wellington Street, Glasgow G2 2XL. Mr Olas had confirmed to the Committee at the inspection that he would not be attending the hearing and neither would the Landlords.

The Committee decided to adjourn the hearing to allow for further investigations and for further information to be obtained as the Committee could not reach a decision on the basis of the information it had at the time of the hearing. The Committee decided to issue a Direction dated 3 August 2016 which required to the Landlords to produce a report from an appropriately qualified individual addressing the strength and adequacy of the extractor fans and to confirm and provide evidence that the extractor fans are discharging to the exterior of the building. The said documents had to be lodged with the PRHP no later than midday on 19 August 2016.

On 12 August 2016, the Landlords' agents provided a report and supporting photographs in answer to the Direction. However, the documents did not conclusively show that the two extractor fans in questions vented externally from the building where the property is located.

The Landlords provided further photographic evidence of the extractor fans. However, the Committee decided that this was still insufficient to allow the Committee to reach a determination on the application. The Committee therefore decided to have another inspection of the property followed by a hearing, with the Committee requesting that

access to the roof space of the building within which the property is located.

A further inspection of the property was arranged to take place on 3 November 2016 at 10 am with a hearing to follow at 11.30 am within Wellington House as designed above. The Administration of the PRHP wrote and advised parties of the date and times of the second inspection and hearing.

The Second Inspection

7. On 3 November 2016, the Committee attended at the property for the purposes of inspection of the property. The new Tenant was present within the property. The Landlords' letting agent, Mr Jaz Malik of KPM Residential as designed above attended at the inspection. The Landlords did not attend the inspection. However, Mr Malik confirmed that he represented the Landlords.

At the inspection, the Committee noted the following points:-

- (a) The extractor fan located in the kitchen area had been removed and replaced. An additional access panel had been cut/secured in the ceiling nearby and a hole where the previous extractor fan was located, was open. It did appear from the original location of the extractor fan that, when first viewed by the Committee, no means for connection to external venting was visible to which the original fan could have been fitted.
- (b) The extractor fan located in the W.C. appeared to be the same as the one viewed at the original inspection, however, there was a new secured access panel located in the ceiling above the shower.
- (c) The functioning of both fans appeared to be stronger than the original fans viewed by the Committee.

The Committee could not gain access to the two panels described above as they were fixed in place by screws. Mr Malik advised that a contractor had been arranged to attend at the property to allow access to these panels together with allowing access to the roof space, if required by the Committee. However, by 10.25 am, the contractor had still not arrived at the property and Mr Malik was advised by his office that the contractor would not be there for at least half an hour.

The Committee agreed to allow Mr Malik to email the PRHP with photographs taken by the contractor of the extractor fans and their connection to any flexiduct, as long as these photographs arrived by the time the hearing was due to start at 11.30 am.

The surveyor member of the Committee took several photographs which form the Schedule attached to this decision.

The Second Hearing

8. No one attended the hearing. However, Mr Malik did send on photographs to the PRHP who forwarded these on to the Committee for consideration at the hearing.

The Committee noted that the photographs revealed that a flexiduct had been fitted to both of the extractor fans.

Given the foregoing, the Committee is satisfied that the property is wind and watertight and in all other respects reasonably fit for human habitation.

Decision

8. The Committee accordingly determines that the Landlords have complied with the duty imposed by Section 14 (1) (b) of the Act. Given the foregoing, there was no requirement for the Committee to make a Repairing Standard Enforcement Order.

9. The decision of the Committee was unanimous.

Reasons for Decision

10. The Committee considers that the Landlords had carried out sufficient repairs to the extractor fans by connecting them to a flexiduct.

The Committee considers that the Landlords have complied with their duty under Section 14(1)(b) of the Act and have complied with the repairing standard in terms of Sections 13 (1) (a) of that Act.

Right of Appeal

13. 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

14. 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.

P Pryce

**Signed
Patricia Anne Pryce**

Date 3 November 2016