



NOTICE TO LOCAL AUTHORITY

**Issued by the Private Rented Housing Committee
in terms of section 24(6) of the Housing (Scotland) Act 2006.**

prhp ref: PRHP/G14/50/12

Re : Property at 35 Abbey Drive, Jordanhill, Glasgow, G14 9JB ("the Property")

The Parties:-

Jane Nafula Cochrane, residing at 35 Abbey Drive, Jordanhill, Glasgow, G14 9JB ("the tenant")

And

Colin Buchanan, residing at Kintarch, Main Street, Killearn, G63 9RJ per his agents Newton Property Management, 87 Port Dundas road, Glasgow, G4 0HF ("the landlord")

Notice to City of Glasgow Council ("the Local Authority ")

The Private Rented Housing Committee hereby serves notice that the Committee is prevented only by reason of section 16(4) of the Housing (Scotland) Act 2006 (herein referred to as "the Act") from deciding that the landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act. The Committee considers the landlord to be unable to comply with that duty.

The Committee finds that the property does not meet the repairing standard:-

the property is not wind and watertight, it is not in all respects reasonably fit for human habitation and appliances within the house (namely the fridge and the cooker) are not in a reasonable state of repair nor in proper working order

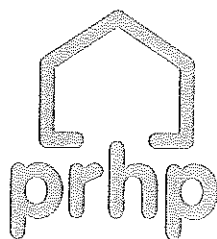
A copy of the relevant decision and Statement of the Reasons for the decision of the Private Rented Housing Committee is annexed hereto.

A landlord or a tenant aggrieved by a decision of the Private Rented Housing Committee under section 24(1) of the Act 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 any 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 any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

The date of service upon the parties of the decision under section 24(1) of the Act is hereby certified to be.....^{25 May}.....2012.

Signed..... **J Bauld** Date ^{25 May 2012}.....
Chairperson



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/G14/50/12

Re:- Property at 35 Abbey Drive, Jordanhill, Glasgow, G14 9JB ("**the property**")

The Parties:-

Jane Nafula Cochrane, residing at 35 Abbey Drive, Jordanhill, Glasgow, G14 9JB ("**the tenant**")

And

Colin Buchanan, residing at Kintarch, Main Street, Killearn, G63 9RJ per his agents Newton Property Management, 87 Port Dundas road, Glasgow, G4 0HF ("**the landlord**")

The Committee comprised:-

Mr James Bauld	- Chairperson
Mr George Campbell	- Surveyor member
Mrs Susan Brown	- Housing member

Decision

The Committee were satisfied that the property did not meet the repairing standard in terms of section 13 of the 2006 Act but were also satisfied that the landlord had only failed to comply with his duty under section 14 (1) (b) of the 2006 Act because the landlord had not managed to obtain the necessary rights of access to carry out the repairs despite having taken reasonable steps for the purpose of acquiring those rights all in terms of Section 16 (4) of the 2006 Act. The Committee accordingly decided not to make a Repairing Standard Enforcement Order (RSEO) in terms of Section 24 (2) of the 2006 Act.

Background:-

1. By application dated 16 February 2012, 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.
5. Receipt of the application was acknowledged on 6 March 2012 by the PRHP. On 12 March 2012, notice of referral was made to both the landlord and the tenant indicating

that the President of the PRHP had decided to refer the application to a Private rented Housing Committee.

6. On 30 April 2012, the Committee served notice of referral on both parties all in terms of the relevant provisions of the 2006 Act. The notice indicated that an inspection and hearing would take place on 8 May 2012 at 10 am.

The Inspection

7. The Committee inspected the property on 8 May 2012. The tenant was present during inspection. The landlord was personally present during the inspection and was also represented by his letting agent, Mr Stephen O'Neil from Newton Property Management.

Summary of issues

8. The issues complained of the application before the Committee can be summarised as follows:-
 - Disrepair to the rear porch
 - Leaking ceiling in the external storeroom
 - Broken windows in bedrooms and bathroom
 - Mould in rooms in the house
 - Leaking fridge
 - Cooker hob not working
 - Doors within the property not closing properly
 - Chipping paint on the wall of the staircase
 - TV aerial had fallen down

The Evidence

9. The evidence before the Committee consisted of:-
 - Application form;
 - Copy Tenancy Agreement
 - Extract of title from the Register of Sasine
 - Copy correspondence between parties and PRHP
 - Copy correspondence between parties

The Hearing

10. On the conclusion of the inspection, the Committee held a hearing at the offices of the Private Rented Housing Panel in Glasgow. The tenant was present at the hearing. The landlord and the landlord's agent were also present during the hearing.
11. At the hearing, the tenant was asked to address the Committee. She suggested that the inspection demonstrated that the various repairs required to be done. She indicated that she did not know that her landlord's agent had changed from Charles White Limited to Newton Property Management. She indicated that she was in the process of removing from the property and hoped to have removed within the next two weeks. She confirmed the rent was £725 per month and that she was a student. She advised that she lived in the property with her three children and had the assistance of an au pair during the day to assist her with looking after her children. She asked the Committee to make an Order requiring the repairs to be done.
12. The Committee were then addressed by the landlord and in particular by his letting agent Mr Stephen O'Neill. Mr O'Neill produced a file of papers which showed numerous

attempts to contact the tenant to arrange for works to be done. There were twenty three different items within the file. Mr O'Neill took the Committee through each item and explained the contents of same. The landlord's position was that he was aware that works were required, wished to carry them out but was frustrated by the tenant in not allowing access to have repairs done. The tenant had had contact not just from the letting agent but also from various contractors instructed by the agent and the tenant had failed to contact them and to make arrangements for access. Mr Buchanan, the landlord, indicated that he wished the repairs to be done. He indicated to the Panel that this house had been his parents' home and that he had a strong emotional attachment to the property. He indicated that the roof had been completely replaced five years previously and that he wished to have any necessary repairs effected. The position of the Landlord and his agent was that they had been frustrated at every turn by the tenant in failing to provide access to the property.

13. Thereafter there was discussion and debate between the parties with regard to the documents produced by Mr O'Neill. The tenant pointed out that some of the emails had been sent to James Cochrane who she accepted was her partner. She accepted that he was the guarantor under the lease. She accepted that she had had telephone calls from Alison within the letting agent's office. She denied receiving the letter dated 8 March from the letting agents. She accepted that on 27 February someone had turned up at the property called Rob. She indicated that she had never heard of Eagle Contracts despite admitting that she had telephoned them on one Sunday morning. She disputed that she had not left messages with Eagle Contracts to allow access to the roofing repair. In particular there was discussion with regard to a letter dated 8 March 2012 which the landlord indicated had been delivered to the tenant via sheriff officers. The landlord also produced an email from the sheriff officers indicating that the letter had been hand delivered to the property and left with "the au pair (male) who advised "that the tenant was at university." Ms Cochrane denied ever having received the letter of 8 March. The letter of 8 March indicated that the roofing contractor required to inspect the property, had left countless messages on the mobile and home number of the tenant, and had requested access via email. It asked the tenant as a matter of urgency to contact Alan Ingles of Eagle Contracts to give him access to the house to start progressing the works. The letter was sent from Stephen O'Neill, Managing Director of Newton Property Management. The tenant denied ever having received the letter. There was further discussion with regard to the replacement of the hob. The landlord had produced to the Committee an email dated 20 March 2012 from Rob McFarlane who was his contractor. The email indicated that the contractor had telephoned the tenant in advance and had advised that he would be there in about ninety minutes to replace the hob. The tenant's position was that she had not been given any such notice and that the contractor had simply turned up while she was having lunch with her children. She asked him to return later that day but he did not do so. The tenant denied that she had refused access to the property and indicated that in her view the landlord could have carried out repairs to the roof without obtaining internal access to the house.
14. The Committee asked various questions of the tenant and in particular asked her to clarify various matters raised in the productions and documents lodged by Mr O'Neil.
15. In conclusion Mr O'Neil indicated that he would prefer no RSEO to be made. He indicated that the landlord was willing to carry out repairs to the property and that an RSEO would be unnecessary. Given that the tenant intended to vacate the property these repairs would be done as soon as the property was empty.

Findings of Fact

16. Having considered all the evidence the Committee found the following facts to be established:-
 - a) The subjects of let are a mid-terraced dwellinghouse constructed in or around 1950. The property extends over two floors. Downstairs there is a hall, a living room and a kitchen. Upstairs there are three bedrooms and a bathroom. The property also has an external store room at ground floor level which runs the entire length of the

property which is accessed both at the front and rear of the property via external doors. The property is situated in the Jordanhill area of Glasgow and is close to local amenities such as transport, shopping and education.

- b) The tenant occupies the property with her three children and an au pair. Internally, the property was very cluttered and at the time of inspection. It was clear the tenant was making preparations to remove. The bedrooms in the property had numerous mattresses and beds within them which seemed excessive for the number of persons claimed to be staying in the property. The rear porch to the property is in a poor state of repair. It is wooden framed and single glazed. Much of the wood was rotted. There were broken panes of glass.
- (b) Within the external store, the internal ceiling had a hole in it and required repair.
- (c) Within the kitchen, the cooker hob required to be replaced.
- (d) Within one of the front bedrooms, there was minor dampness which required to be treated.
- (e) Within the rear bedroom the window did not close properly and was stiff to operate
- (f) Throughout the property there are many minor items which require decorative or cosmetic repairs including window frame, wall and door facings.

Reasons for Decision

- 17. The Committee considered the various issues set out by the parties and determined that the property did not meet the repairing standard as set out in the Act. The standard does not require a level of perfection but does require that the property is generally reasonably fit for human habitation, that it is wind and water tight and that appliances and fixtures require to be in a reasonable state of repair.
- 18. The Committee took the view that throughout the property it was evident that the property was not within a reasonable state of repair and there were a number of repairs which were required to bring the property up to the standard set out in the repairing standard.
- 19. However, the Committee were satisfied that the landlord and his agent had made all necessary attempts to deal with the repairs as and when requested by the tenant. The Committee accepted the evidence produced by the letting agent with regard to correspondence sent to the tenant. The Committee took the view that the tenant had failed to co-operate with the letting agent and had failed to provide necessary access to allow repairs to be done. The Committee took the view that the landlord would have carried out repairs had access been given and had the tenant not refused to grant access. Accordingly the Committee were satisfied that the property did not meet the repairing standard but were also satisfied that the landlord had only failed to comply with his duty because the landlord had not managed to obtain the necessary rights of access to carry out the repairs despite having taken reasonable steps to acquire those rights of access. The landlord had made numerous attempts to contact the tenant both personally and via a number of contractors. The tenant's refusal and unwillingness to co-operate with the landlord was the reason for the property to meeting the repairing standard.
- 20. The decision of the Committee was therefore to dismiss the application and the decision of the Committee was unanimous. The Committee indicates that it anticipates that the landlord will carry out all the necessary repairs to the property prior to it being let to a new tenant.

Rights of Appeal

- 21. 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.

22. 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

23. 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.
24. 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 ... 25 May 2012 ...

James Bauld, Chairperson

Signature of Witness..... **M Haughton**

Date ... 25 May 2012 ...

Name: **MARY HAUGHTON**

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

Designation: Senior Court Administrator