



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

**Ref prhp/rp/15/0172**

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 by Lindsey McGinlay residing at 2/1, 543, London Road, Glasgow on behalf of herself and Steven Elliot also residing at 2/1, 543, London Road, Glasgow ("the Tenants") per Citizens' Advice Bureau, 35 Main Street, Bridgeton, Glasgow against Thomas Bostock Queen and Mary Queen ("the Landlords") residing at 4 Dean Ridge, Gowkhill, Dunfermline KY12 9PE per their agents, Zone Lettings, having a place of business at 33, Lynedoch Street, Glasgow ("the Landlords' Agents")

Re: Flat 2/1, 543 London Road, Glasgow G40 1NQ ("the Property")

**Committee Members**

Karen Moore (Chairperson)

Andrew Taylor (Surveyor Member)

Thomas Keenan (Housing Member)

**Background**

1. By application dated 1 May 2015 and signed by Lindsey McGinlay on behalf of herself and Steven Elliot ("the Application"), the Citizens' Advice Bureau, 35 main Street, Bridgeton, Glasgow, G40 1QB, applied to the Private Rented Housing Panel for a determination that the Landlords had failed to comply with the duty imposed on them by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Section 13 (1) (a) of the Act.

2. The president of the Private Rented Housing Panel, having considered the application, intimated to the parties by Notice of Referral dated 21 May 2015, a decision under Section 23 (1) of the Act to refer the Application to a Private Rented Housing Committee, and, in terms of Schedule 2, Paragraph 1 of the Act fixed an Inspection and Hearing for 2 September 2015 at 10.00 a.m. and 11.30 a.m., respectively.
3. In the Application, it was stated that there was dampness and mould throughout the Property and that the windows seals need to be replaced. It was further stated that the Landlords had failed to ensure that tradesmen attended at the Property to carry out repairs.
4. By email sent to the Committee on 8 July 2015, the Tenant advised the Committee that she had vacated the Property having been served with eviction proceedings by the Landlord. The Committee then gave consideration to whether the Application should be determined or abandoned in terms of paragraph 7(3)(b) of Schedule 2 to the Act.
5. The Committee formed the view that as the nature of the Tenant's complaint as outlined in the Application was serious, being described as having "mould and dampness in throughout the flat", there was sufficient concern that the matters complained of might not have been resolved to meet the Repairing Standard as required by the Act. Accordingly the Committee continued with the proceedings in terms of paragraph 7(3)(b) of Schedule 2 to the Act.
6. On 8 August 2015, the Landlords' Agents submitted written representations to the Committee. The Landlords' Agents addressed all of the points raised by the Tenants in the Application and advised the Committee that, in their view and from their inspection of the Property, the cause of mould in the Property was condensation resulting from the volume off the Tenants' possessions and lack of ventilation. The Landlords' Agents further advised the Committee that they arranged an inspection by Glasgow City Council's Environmental Health Services to assess dampness and that there were no significant dampness readings. The Landlords' Agents explained that the repair to the ceiling resulted from an insurance claim in respect of water ingress

from the upstairs flat and the Landlords' Agents has liaised with the property managers for the building to have the repair carried out and the ceiling replaced. The Landlords' Agents also advised that new double glazed window units had been fitted that the Property had been cleaned and redecorated. Further, the Landlords' Agents advised the Committee that the Landlords had made a goodwill payment of £100.00 to the Tenants to compensate for inconvenience due to the ceiling repair. The Landlords' Agents submitted email correspondence, photographs and receipts in support of their written representations.

### **Inspection and Hearing.**

7. Inspection took place on 2 September 2015 at 10.00 a.m. at the Property. The Landlords were not present at the Inspection. Mr. Scott McKinnon of the Landlords' Agents was present at the Inspection.
8. At the time of inspection the weather was dry and partially overcast. The Committee inspected the walls, ceilings and windows of the Property being the matters of which the Tenants complained specifically in the Application. The Committee took digital photographs at the Inspection which photographs form the Schedule annexed and executed as relative hereto
9. Following the Inspection, a Hearing was held at the Europa Building, 450 Argyle Street, Glasgow G2 8LH on 2 September 2015 at 11.00 a.m. The Landlords were not present at the Inspection. Mr. McKinnon of the Landlords' Agents was present at the Inspection.
10. At the Hearing, Mr. McKinnon submitted to the Committee that, in his opinion, the matters complained of by the Tenant had been resolved as the Landlords had undertaken the works necessary to address the complaints raised in the Application.
11. With regard to the dampness, Mr. McKinnon advised the Committee that, in his view, the mould which had been present in the Property had been caused by condensation due to the volume of the Tenant's furnishings and a lack of ventilation.

12. With regard to the ceiling, Mr. McKinnon advised the Committee that there had been water ingress from the flat above and that the ceiling had been renewed as part of an insurance claim.
13. With regard to the window, Mr. McKinnon advised the Committee that the sealed units had been replaced. Mr. McKinnon advised the Committee that although the Landlords' Agents carried out periodic inspections of the Property, he could not state if it had been noted by the inspector that the seals were defective. He advised the Committee that this had been noticed during the inspection by Glasgow City Council's Environmental Health Services.

### **Summary of the Issues**

14. The issues to be determined by the Committee are whether or not the Property meets the Repairing Standard in respect of Sections 13 (1) (a) of the Act at the date of the Inspection and Hearing. In particular, whether the Property is wind and water tight and in all other respects fit for human habitation.

### **Findings of Fact**

15. Thomas Bostock Queen and Mary Queen are the owners of the Property under title number GLA95529 and Lindsey McGinlay and Steven Elliot were the tenants of the Property in terms of a tenancy agreement between the parties dated 23 September 2013.
16. The Property is a flat within a traditional three storey 1980's flatted development. The block has a pitched tiled roof and facing brick external walls. A photograph of the external aspect of the Property is shown on the Schedule.
17. From the Inspection, the Committee found the following:
  - The walls Property are free from dampness. (photograph is shown on the Schedule) ;
  - The double glazing units throughout the Property appear to have been replaced. (photograph is shown on the Schedule) ;
  - There is a hard wired smoke detector in the hall (photograph is shown on the Schedule);
18. From the Landlords Agents' written representations and submissions, the Committee found that the Landlords had remedied the matters complained of in the Application.

### **Decision of the Committee**

19. The Committee's decision was based on the Application with supporting documents, the written representations submitted by the Landlords' Agents, the Inspection and on the statements made to the Committee by Mr. McKinnon at the Hearing.
  
20. In respect of Section 13 (1) (a), of the Act, the Committee found that at the date of the Hearing the Landlords have not failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reason being that the Property is wind and watertight. However the Committee recommends that, if re-letting the Property, that the Landlords provide and install smoke detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5839 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under Section 2 -Fire, Sub-section 2.11 Communication.
  
21. The decision is unanimous.

### **Right of Appeal**

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.

Where such an appeal is made, the effect of the decision and of any repairing standards enforcement 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 repairing standards enforcement order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

**K. Moore**

Karen Moore, Chairperson

Date 9 September 2015

Glasgow 9 September 2015  
This is the Schedule referred to in  
the foregoing determination

**K. Moore**

*Chartered*



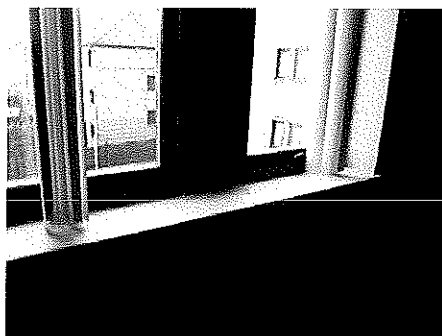
Flat 2/1, 543 London Road, Bridgeton, Glasgow. G40 1NG  
PRHP/RP/15/0172  
Schedule of Photographs - Inspection Date 2/9/2015  
Inspection Date



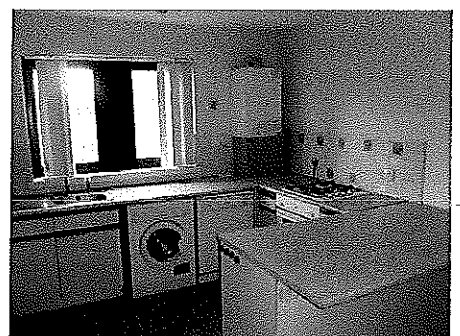
The property



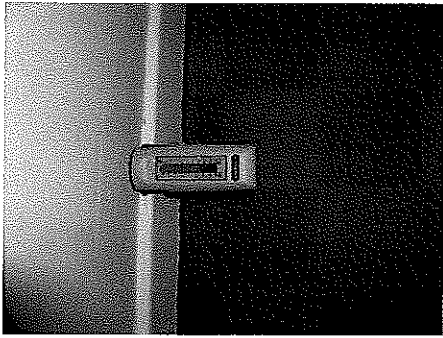
Replacement double glazing units



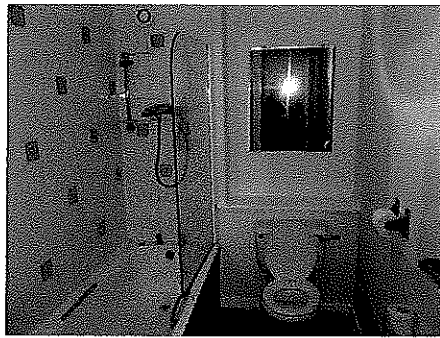
Replacement double glazing units



Kitchen



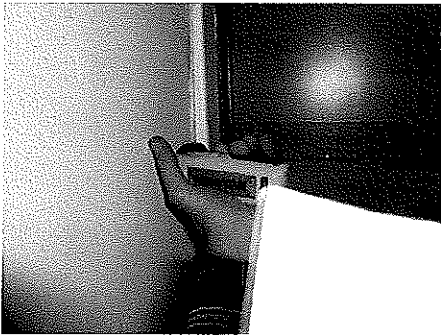
Dampness meter test - Bedroom



Bathroom



Ceiling replacement – living room



Dampness meter test- Living Room



Existing smoke alarm