

Ref PRHP/RP/15/0201



**Private Rented Housing Committee**

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

**Re: 1/2, 33 Greendyke Street, Glasgow G1 5PS (“the Property”)**

**Title Number: GLA161249**

**The Parties:-**

**MR CHRISTOPHER KELLY, residing at 1/2, 33 Greendyke Street, Glasgow  
G1 5PS (“the Tenant”)**

**ROBERT GORDON SKINNER and EILEEN MARY JUDITH SKINNER,  
Spouses, residing together at 26 Springfield Court, Glasgow G1 3DQ (“the  
Landlords”)**

**Committee members:-**

**Richard Mill (Chairman) and Mike Links (Surveyor Member)**

*Decision*

The committee, having made enquiries for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the Property, determined that the Landlord has not failed to comply with the duty imposed by Section 14(1)(b) of the Act in respect that the Property does meet the Repairing Standard.

### *Background*

1. By way of application dated 5 July 2015, and received on 10 July 2015, the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act in respect of the Property.
2. In the application the Tenant stated that the Landlord had failed to comply with their duty to ensure that the house meets the Repairing Standard in a number of respects. The relevant aspects of the Repairing Standard put at issue are those contained within Sections 13(1)(c) which is in the following terms:-
  - whether 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.
3. The complaints of the Tenant were specifically the following:-
  - It was alleged that the “boiler” had been broken for some 7 months prior to the date of their application.
  - It was stated by the Tenant that none of the electrical appliances had been PAT tested since 2012.
4. Notices of Referral were issued to parties on 17 September 2015.

### *Inspection*

5. The committee inspected the Property on 29 October 2015 at 1.30 pm. The Tenant invited the committee members into the Property and directed them around. The Landlords were represented at the inspection by Josh Hardie of Hap Lettings. Also in attendance was Francis Lynch of FJL Gas Services who had undertaken the work to replace the water tank in the Property.

### *Hearing*

6. Following the inspection of the Property the committee convened a Hearing at Wellington House, 134-136 Wellington Street, Glasgow G2 2XL. The Tenant appeared personally and gave evidence in support of his application. Also in attendance was Josh Hardie of Hap Lettings and Francis Lynch of FJL Gas Services.

### *Summary of the issues*

7. The issues to be determined by the committee are whether or not the Property meets the Repairing Standard to the extent put at issue within the application, as at the date of the Hearing. The focus of the committee’s investigation related to the complaints as specified within paragraph 3 above.

### *Findings in Fact*

8. The committee makes the following findings in fact:

- 8.1 The title to the subjects known as 1/2 33 Greendyke Street, Glasgow G1 5PS is held the Landlords. Their interest is registered in the Land Register of Scotland under title number GLA161249 on 27 November 2002.
- 8.2 The Property which is the subject of this application is a first floor flat within a traditional sandstone building being a conversion from a former commercial property.
- 8.3 The parties entered into a Short Assured Tenancy Agreement which commenced on 8 August 2014. The initial period of the Lease was for the 6 months from 3 September 2014 until 3 March 2015. The Lease has not been terminated by either party and continues.
- 8.4 In relation to the matters complained of in the Application the committee's inspection revealed:-
- i. The water tank in the Property is a gravity fed combined cylinder tank. It is positioned within a cupboard off the hallway.
  - ii. The current cylinder has a capacity of 85 litres of hot water and 20 litres of cold water.
  - iii. The bath within the Property is of average dimensions.
  - iv. There were no appliances within the Property causing any electrical concerns.
  - v. Reference is made to the attached schedule of photographs taken during the committee's inspection.

*Reasons for the Decision*

9. The committee determined the Application having regard to the bundle of papers (which had been made available in advance to parties), their inspection, together with the evidence of those in attendance at the Hearing.
10. The committee was only able to formally consider the Tenant's complaints which formed part of the intimated application. The committee was also under an obligation to consider the Tenant's complaints as at the time of the Hearing on 29 October 2015.
11. The committee was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the reference. The background is that the former water tank burst on 1 November 2014. An emergency immediate attendance was made at the property and the tank replaced within 1 week.

12. The conversion within which the Property is situated does not benefit from the supply of mains gas. When the previous gravity fed combined cylinder water tank burst it required to be replaced by a like for like product. Mr Lynch who is a qualified Gas Engineer took measurements for a replacement product on his first visit to the Property. He subsequently carried out investigations in order to purchase and install a new product of the correct specification. In addition to carrying out measurements he explored by the use of independent information the capacity of tank required for the Property. He identified that the largest replacement product was that which was subsequently installed, namely an 85 litre hot/20 litre cold gravity fed combined cylinder tank. He also identified that it would not be possible given the available space within the Property to install a larger tank. He confirmed via reference to a website, namely [www.waterwise.org.uk](http://www.waterwise.org.uk), that an average bath requires 80 litres of hot water and is adequate in capacity for the Property.
13. The Tenant complained that the quantity of hot water produced by the new cylinder is far less than that which was provided by the old boiler. It was not possible to identify the exact capacity of the former tank as it was somewhat aged and the capacity was not marked thereon. It was however accepted on behalf of the Landlord that the previous water cylinder did have a larger capacity.
14. Modern tanks have a far greater level of insulation and accordingly the product sizes are larger than those of a similar capacity which have been manufactured historically.
15. The waterwise website confirms that 80 litres of hot water is sufficient to run an average bath.
16. The Tenant complained that the water tank was only producing sufficient water to fill 4 inches of the bath. He complained that even after topping this up with cold water this was insufficient to produce a reasonable bath for an adult. Mr Lynch who had visited the Property, following complaints by the Tenant, in this regard had filled the bath personally. He stated that around 6 inches of what he described as "scalding hot" water was capable of being produced by the replacement tank.
17. The Tenant did not provide or supply any independent verification of the need for a water tank of greater capacity than that installed in November 2014. The committee found Mr Lynch credible and reliable. He supplied the only technical and professional evidence which was available before the committee.
18. The committee are prepared to accept that the quantity of hot water produced by the replacement tank is not as great as the original tank

situated within the Property when the Tenant took up occupation. However the committee is satisfied that the quantity of hot water produced is sufficient to enable an adult to bathe. The committee also noted that the tenancy benefits from an electric shower above the bath.

19. The Tenant complained that the portable electrical appliances within the Property had not been tested since 2012. In fact, vouching was produced in advance of the Hearing on behalf of the Landlords which disclosed that PAT testing had been undertaken in May 2013. The committee noted at the Hearing that it was undertaken on behalf of the Landlords that further PAT testing would be undertaken prior to 1 December 2015. The Landlords' agent is aware of the new Regulations which come into effect on that date. The Tenant was happy with that undertaking in relation to that aspect of his complaint.

*Decision*

20. The Property does meet the Repairing Standard. The Landlord has complied with their duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is not necessary.

*Right of Appeal*

21. 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 of the Act*

22. Where such an appeal is made, the effect of the decision and of any order made, 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 date on which the appeal is abandoned or so determined.

R. MILL <sup>^</sup>

Signed ....  
Chairman

..... Date 3 November 2015