

**Repairing Standard Enforcement Order**  
**Ordered by the Private Rented Housing Committee**  
**Case reference number : PRHP/ML10/102/11**

Re:- Property at 9 Branks Avenue, Chapelton, Near Straven, ML10 6RL ("the property")

**The Parties:-**

**Mr Clelland Anderson residing at 9 Branks Avenue, Chapelton, Near Strathaven, ML10 6RL**

**("the tenant")**

**and**

**Mr Andrew McMaster c/o A & M Letting Connexions, 21 St James avenue, East Kilbride, G74 5QD**

**("the landlord")**

**Notice to Mr Andrew McMaster**

Whereas in terms of the decision dated 9 March 2012 the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular the landlord had failed to ensure that:-

- (a) the house is wind and watertight and in all respects reasonably fit for human habitation

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 all the necessary repairs to the roof and exterior of the building to ensure that the property is wind and water tight and to prevent further water ingress into the property.

The Private Rented Housing Committee orders that the works specified in this order must be carried out within eight weeks 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.

**J Bauld**

Signed.....

Date *9 March 2012*

Chairperson

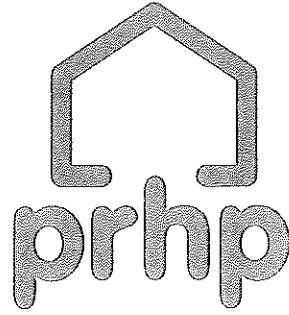
Signature of Witness.... **R King** .....

Date *9 March 2012*

Name: *ROBINA KING*

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

Designation: *LEGAL SECRETARY*



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

**PRHP Ref: PRHP/ML10/102/11**

**Re:- Property at 9 Branks Avenue, Chapelton, near Strathaven, ML10 6RL ("the property")**

**The Parties:-**

**Mr Clelland Anderson residing at 9 Branks Avenue, Chapelton, near Strathaven, ML10 6RL  
("the tenant")**

and

**Mr Andrew McMaster c/o A & M Letting Connexions, 21 St James Avenue, East Kilbride, G74  
5QD  
("the landlord")**

**The Committee comprised:-**

Mr James Bauld	- Chairman
Mr Mike Links	- Surveyor member
Mr Scott Campbell	- Housing member

**Decision:-**

The Committee having made such enquiries as it saw fit for the purposes of determining whether the landlord had complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the 2006 Act") in relation to the property and taking account of the evidence led at the hearing, unanimously determined the landlord had failed to comply with the duty imposed by Section 14(1)(b)

of 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 9<sup>th</sup> May 2011, the tenant applied to the Private Rented Housing Panel (PRHP) for a determination as to whether the landlord had failed to comply with the duties imposed by Section 14(1)(b) 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 the landlord had failed to ensure that :-
  - a. the house was wind and water tight and in all respects reasonably fit for human habitation
  - b. the installations in the house for the supply of water, gas and electricity and sanitation, space heating and heating water were in a reasonable state of repair and in proper working order.

The tenant attached to the application a note detailing the defects.

3. By letter dated 18<sup>th</sup> May 2011, the Private Rented Housing Panel acknowledged receipt of the application from the tenant and indicated the application would be referred to the President of the Panel for consideration. Subsequent communication between the PRHP and the tenant took place via email and on 15<sup>th</sup> August 2011 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22(1) of the 2006 Act to a Private Rented Housing Committee.
4. Notification of that referral was served upon both the landlord and the tenant in terms of the relevant provisions of the 2006 Act.
5. Following service of the Notice of Referral, further written representations and communications were made between the tenant and the Clerk to the Private Rented Housing Panel. An inspection and hearing was set to take place on 27<sup>th</sup> October 2011. That inspection and hearing were cancelled by arrangement and agreement with the landlord and tenant.
6. A further inspection and hearing was set to take place on 23<sup>rd</sup> February 2012.
7. The Committee inspected the property on the morning of 23<sup>rd</sup> February 2012. The tenant and his wife and the landlord and Mr Robert O'Rourke were present during the inspection.
8. Following the inspection of the property, the Committee held a hearing at Balgreen Hall, Strathaven. At that hearing the tenant was present. The landlord was present at the hearing and again accompanied by Mr Robert O'Rourke.

### **Summary of Issues**

9. The issues complained of by the tenant in the application can be summarised as follows:-
  - The ceiling in the down stairs room and the entrance vestibule had suffered water ingress and damage.

- The boiler in the property required repair.
- There were difficulties with drainage from the bath in the main bathroom
- The stairs from the lower floor to the upper floor lacked a bannister.

During the course of the inspection and the hearing, the tenant accepted that the repairs to the boiler had been completed and all parties were agreed that the complaint regarding the boiler should no longer be considered by the Committee. Further, during the inspection and the hearing the tenant accepted that no defect was demonstrated to exist with the drainage from the bath in the bathroom and the tenant admitted that his wife had resolved this difficulty by using a commercial drain clearing and unblocking fluid. Accordingly the Committee decided they would not consider that matter.

### **The Hearing**

10. At the hearing, the Committee heard representations from both the tenant and the landlord regarding the matters which were outstanding. It was agreed between the parties that there was never a bannister within the property. The tenant took the view that a bannister should be provided as the stairs leading from the ground floor to the upper floor were relatively steep and that there had already been some accidental falls. The landlord accepted that there had never been a bannister within the property but was happy to offer to install one. It was agreed between the parties that a bannister would be fitted on the flight of stairs leading from the ground floor to the landing on the stairs.
11. The hearing then considered the question of the water ingress to the downstairs room. It was agreed between the parties that the downstairs room which was affected by the water ingress had originally been the garage to the property. It had been converted to a room used for dwelling at some point in the past. Part of the external roof above this room was a flat roof extending at the front of the property.
12. It was agreed between all parties at the hearing that this room had suffered significant water ingress. The landlord advised that they had made various attempts to carry out repairs and accepted that these repairs had not been successful. The landlord accepted that he was required to carry out further repairs and indicated that arrangements had already been made for a roofer to attend at the property on 27<sup>th</sup> February 2012 to carry out further investigations and to carry out further repairs. The landlord admitted that it was possible that the leak was not being caused by water ingress via the roof of the property but may be caused by water ingress via cracks in the roughcast to the property.
13. Both the tenant and the landlord answered a variety of questions from members of the Committee. It appeared to be a matter of common agreement among all parties that water ingress to the property was occurring and that substantial damage had been caused to the internal ceilings in the downstairs room and the entrance vestibule. That had caused subsequent damage to the décor to the property. At the time of inspection, a large hole had been cut in the ceiling of the downstairs room which allowed inspection of the joists and insulation above the ceiling. During the course of the inspection, protimeter readings were taken which showed substantial dampness within this area. Protimeter readings were also taken within the entrance vestibule and again indicated substantial areas of dampness.

### **Findings of Fact**

14. Having considered all the evidence the Committee finds the following facts to be established:-
  - a) The subjects of let comprise a detached house extending over two storeys. It is approximately 30 years old and appears to be of standard construction. It is a modern estate in a rural village. The house has a large living room and dining room downstairs

with kitchen. There is an entrance vestibule and another downstairs room which was previously the garage. Upstairs there are three bedrooms, one of which is en suite and separate bathroom.

- b) Within the downstairs room and the entrance vestibule there was evidence of significant water ingress and significant damage to the ceilings to the walls and décor. On the stairs leading from the ground floor to the upper floor there was no handrail or bannister on the first flight of stairs leading from the ground floor to the half landing.

### **Reasons for Decision**

15. The Committee considered the issues of disrepair set out above and reached the following conclusion:-

- The evidence of water ingress within in the downstairs room and entrance vestibule indicated that the property was not water tight and the Committee was satisfied that this failure constituted a clear breach of the repairing standard set out in section 13 (1)(a) of the 2006 Act.
- The Committee determined that they would accept the landlord's undertaking to install a bannister on the stairs but did not consider that its absence was a breach of any part of the repairing standard.

16. The decision of the Committee was unanimous

### **Rights of Appeal**

17. 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
18. 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

### **Effect of Section 63**

17. 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.

18. 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** .....  
Chairperson

Date... *9 March 2012* .....

Signature of Witness..... **R King** ...

Date... *9 March 2012* .....

Name: *ROBINA KING*

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