



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: Prhp/EH54/119/11

Re : Property at 185 Clement Rise, Dedridge, Livingston EH54 6LP ("the house")

Title No: MID34869

The Parties:-

Vanessa Garner, 185 Clement Rise, Dedridge, Livingston EH54 6LP ("The Tenant")

Mohsan Javaid Syed, 15 Clova Drive, Livingston EH54 9HD ("the Landlord")
(care of his agents J & C Property Lettings, 13 Onslow Street, Craigshill, Livingston EH54 5HR)

NOTICE TO Mohsan Javaid Syed, ("the Landlord")

Whereas in terms of their decision dated 23 September 2011, the Private Rented Housing Committee determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(a),(b),(c) and (d) of the Housing (Scotland) Act 2006 and in particular that the Landlord has failed to ensure that the house meets the repairing standard in that :-

- (a) the structure of the house is not in a reasonable state of repair and the house was not reasonably fit for human habitation as a result of the ceiling of the ground floor hallway having a hole;
- (b) the radiator in the ground floor hallway adjacent to the front door was not in a reasonable state of repair or in proper working order;
- (c) all installations for the supply of electricity in the house, including the fuse box and the wires for a ceiling light bulb in the master bedroom were not in a reasonable state of repair or in proper working order;

- (d) the windows in all of the bedrooms were not in a reasonable state of repair or in proper working order and not wind and watertight and the window in the kitchen was not in a reasonable state of repair or in proper working order;
- (e) the exterior of the house was not in a reasonable state of repair or in proper working order in that the door from the kitchen to the garden had a latch, handle and lock none of which were in proper working order and there was a clear gap between the outside wall and the top and right facings of the door, the gap also rendering the house not wind and water tight;
- (f) the washbasin in the bathroom and the bath were not in reasonable states of repair due to being loose from the wall and having a broken panel respectively and the shower in the bathroom was not in proper working order due to the faulty electrical system;
- (g) the structure of the house is not in a reasonable state of repair as a result of the missing tiling and plasterboard in the bathroom;
- (h) the kitchen units, drawers and extractor fan are not in a reasonable state of repair;
- (i) the house does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire;

the Private Rented Housing Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the Landlord:-

- (a) to carry out such works as are necessary to reinstate the ceiling in the downstairs hallway, decorating the reinstated ceiling and making good;
- (b) to ascertain the cause of the leak in and repair the radiator in the downstairs hallway at the righthand wall upon entry through the front door;

- (c) to instruct the whole electrical system of the house to be investigated by an electrician registered with the National Inspection Council for Electrical Installation Contracting (NICEIC) to obtain from such electrician recommendations for all works necessary to make all electrical installations in the house in a reasonable state of repair and in proper working order (including the fuse box, the kitchen oven, the bathroom shower and the master bedroom light fitting), and to carry out all such recommended works;
- (d) to replace the double glazed window units in the kitchen, the leftmost bedroom;
- (e) to refit, repair or replace the double glazed windows and window frames in the middle and rightmost or master bedroom so as to put them into proper working order and a reasonable state of repair;
- (f) to repair or seal the gap between the interior window sill and the window in the middle bedroom;
- (g) to replace the double glazed door from the kitchen to the garden with one with fully functioning latch, door handles and lock and with a properly sealed door frame to prevent wind and water penetration;
- (h) to replace all units and worktops and the extractor fan above the hob within the kitchen;
- (i) to fix the washbasin in the bathroom firmly to the adjacent wall and to replace the bath panel in the bathroom;
- (j) to repair or replace the missing plasterboard on the bathroom wall and to replace the missing or damaged tiling on the bathroom walls;
- (k) to repair or replace the shower in the bathroom in order to place it in a reasonable state of repair and in proper working order, and to carry out any ancillary works to the bathroom to make good;
- (l) to install smoke alarms into the property that comply with the provisions of Section 2. 11 of the Technical Handbooks 2011 Domestic – Consolidated being guidance issued by the Scottish Government.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 28 days from the date of service of this Notice.

A landlord or a 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 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.

In witness whereof these presents typewritten on this and the preceding page(s) are executed by David Bartos, Advocate, Parliament House, Parliament Square, Edinburgh EH1 1RF, Chairperson of the Private Rented Housing Committee at Edinburgh on 23 September 2011 before this witness:-

C Faulds witness
chairperson

D Bartos

CLAIRE FAULDS name in full

63 LABURNUM AVE Address

PORT SETON

EH32 0UD

NURSE Occupation



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

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 /EH54/119/11

Re : Property at 185 Clement Rise, Dedridge, Livingston EH54 6LP ("the house")

Title No: MID34869

The Parties:-

Vanessa Garner, 185 Clement Rise, Dedridge, Livingston EH54 6LP ("the Tenant")

**Mohsan Javid Syed, 15 Clova Drive, Livingston EH54 9HD ("the Landlord"),
(care of his agents J & C Property Lettings, 13 Onslow Street, Craigshill,
Livingston EH54 5HR)**

The Committee comprised:-

Mr David Bartos - Chairperson
Mr Ian Mowatt - Surveyor member
Mrs Christine Anderson - Housing member

Decision

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

Background:-

1. By application received on 8 June 2011, the Tenant applied to the Private Rented Housing Panel ("PRHP") for a determination that the Landlord had failed to comply with the duty to ensure that the house met the repairing standard in section 13 of the Housing (Scotland) Act 2006.
2. In her application the Tenant complained that the landlord had failed to meet the repairing standard in that the house was not wind and watertight

and in all other respects reasonably fit for human habitation (section 13 (1)(a) of the 2006 Act); the structure and exterior of the house was not in a reasonable state of repair and in proper working order (section 13 (1) (b) of the 2006 Act), the installations in the house for the supply of gas and electricity and for space heating and heating water were not in a proper state of repair and in proper working order (section 13 (1)(c) of the 2006 Act); and that the house did not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (section 13 (1) (f) of the 2006 Act). She also complained about the kitchen requiring to be replaced which the Committee understood as a complaint under section 13 (1)(d) of the 2006 Act that the fixtures and fittings provided by the Landlord there were not in a reasonable state of repair or in proper working order. Her application related to the matters which she had raised in her earlier complaint to the Landlord's agent Steven Kerr of J & C Property Lettings dated 24 May 2011 and in a telephone call dated 1 June 2011.

3. The President of the Private Rented Housing Panel decided under section 23 of the 2006 Act to refer the application to a Private Rented Housing Committee. That decision was intimated to the Tenant and to the Landlord at his agent's address by letter of the Panel's Clerk dated 6 July 2011 and entitled "Notice of Referral". The Committee comprised the persons stated above. The intimation of the Notice of Referral to the Landlord included a copy of the Tenant's application to the Panel.
5. Following intimation of the Notice of Referral, the Tenant intimated by means of a form dated 6 July 2011 and received by the Panel on 25 July 2011 that she wished to attend a hearing. No response was received from the Landlord or his agent. An inspection of the house and hearing at Howden Park Centre, Howden, Livingston was fixed for 12 September 2011 at 9. 30 a.m. and 10. 30 a.m. respectively. The date and times were intimated to the Tenant and to the Landlord by letter dated and sent on 18 August 2011.

The Inspection

6. The Committee inspected the house on 12th September 2011 at 9. 30 a.m. The Tenant was present. There was no appearance by or on behalf of the Landlord. The inspection revealed that the house is an end terrace house which is part of the 1970s development of the former Livingston Development Corporation in the Dedridge area of Livingston. The weather at the time of the inspection was dry. It followed rain overnight. There were a lot of complaints in the application. The Committee carefully inspected all of them. Accordingly the inspection did not finish until about 10. 35 a.m..

The Evidence

7. The evidence before the Committee consisted of:-
- The application form together a paper apart detailing the manner of notification of works on the landlord and with the correspondence accompanying it dated 24 May, 1 and 2 June 2011
 - Copy tenancy agreement
 - Registers Direct copy of Land Register title MID34869
 - Copy Notice to Quit by J & C Property Lettings on behalf of the Landlord to the Tenant both dated 13 April 2011
 - The oral evidence of the Tenant
 - The oral evidence of the Tenant's partner Tony Moorehead

The Hearing

8. At the conclusion of the inspection the Committee held a hearing within the Howden Park Centre. Given the conclusion of the inspection at about 10.35 a.m. the hearing commenced at about 11.05 a.m.. Inquiries at the reception of Howden Park Centre before the hearing commenced disclosed that no-one had inquired about the hearing at reception up to that time. The Tenant appeared at the hearing. She put forward her evidence and the evidence of one witness namely her partner Tony Moorehead.
9. The Tenant confirmed that she had had no communication from the landlord at all. She had only ever dealt with his agents. His agents were Stephen and Sonya Kerr of J & C Property Lettings. She explained that when she had moved into the house Mr Kerr had promised to carry out various work to the house. The work was to include a new kitchen, including its ceiling. The kitchen had staining on the ceiling which could not be wiped off. The drawers in the kitchen unit were unusable. They didn't open. They had no side runners on them. The oven was dirty so that she had not been able to use it. He said that he would get it cleaned. None of the work had been carried out. Her first complaint about that work was in 2010 or at the beginning of 2011. Then in February 2011 the agent had accepted that new windows were needed. In her bedroom when the bed had been beside the window she could hear dripping through the wall at the side of the house. It happened a couple of times. It had not been heard for some time although she had moved her bed.
10. The bathroom smelled of damp and the toilet smelled. She had to put bleach into the toilet. Mr Kerr agreed to do the bathroom after Christmas 2010. He wanted her to pay for the tiles but she couldn't afford this. She had to buy a new ballcock for the toilet system. Her partner had tightened up the toilet after the hole in the ceiling had appeared. No water has leaked from the toilet since this was done.
11. When the ceiling in the hall had begun to bevel downwards she had tried to telephone the agents. She was unable to speak to anyone and left an answering machine message. After the ceiling had fallen in she had tried

phoning again and sent another voicemail message. She heard nothing back from the agents. She then wrote and sent letters to Mr Kerr dated 24th May and 1st June 2011. The second of these she received back 3 weeks later in a Royal Mail envelope which she produced. The boiler then broken down. She tried phoning Mr Kerr again. She spoke to him. He said that the Landlord would not allow him to carry out any repair because the rent had not been paid. She phoned Mr Kerr again. Water had begun to flow from the boiler and was running down the hall into the cupboard.

12. The electricity stopped working. An electrician came out. He took pictures of what he saw. He was appalled. He found touching wires. He commented that a person could have been electrocuted in the shower and condemned the shower. He inspected the electricity fuse box in the alcove off the lounge. The box was smoking. He said that it should have been sealed because it was an old box. He repaired the box but carried out no further work. She understood from the electrician that the gas board had to fix the electrical system. She phoned Mr Kerr again after this visit but again there was no reply. The gas man came. She produced an undated gas certificate from Kerr Gas Systems which he had given her. She had received the notice to quit in the papers but was told that it was not a legal document. She and her family did not move out. She confirmed that the appliances in the kitchen such as the toaster, microwave and kettle tripped the electricity. The window in her son's bedroom did not have working locks and this was worrying.
13. Tony Moorehead confirmed that he also resided at the house. He said that he was particularly worried about the window in the leftmost bedroom. He had seen his son sitting with his back up against the window.
14. The Tenant confirmed that the boiler was now working.
15. The Committee had no reason to doubt the credibility of the Tenant and her witness. Their only doubt concerned the reliability of her evidence in relation to the water dripping through the wall. Given that upon their inspection they did not discover any means by which the water would have been dripping inside the wall the Committee conclude that the Tenant must have been mistaken as to the location of the dripping.

Findings of Fact

16. Having considered all the evidence, including their inspection, the Committee found the following facts to be established:-
 - (a) In September 2010 the Tenant entered into a lease of the house from the Landlord. The lease is comprised in a tenancy agreement dated 24 September 2010 between the Tenant and Stephen Kerr of the Landlord's agents J & C Property Lettings. The date of entry was on 24 September 2010. The term of the lease was from 24 September 2010 to 24 March 2010 and from month to month thereafter until terminated

upon either one calendar month's notice by the Tenant or two calendar months' notice by the Landlord. The Tenant continues to occupy the house under the Lease.

- (b) The house is an end terrace house which is part of the 1970s development of the former Livingston Development Corporation in the Dedridge area of Livingston. On the ground floor it comprises a hallway with a kitchen and living room and a staircase leading from the hallway to the first floor. On the first floor there is a hallway which runs the length of the house. Off the hallway to the rear of the house there are three bedrooms. The leftmost of these is at the end gable of the house. Each of the bedrooms has a window or windows to the rear of the house. At the end of the hallway furthest from the gable end is a bathroom facing the front of the house. Also accessible from the hallway on the first floor at the front of the house is a cupboard with the boiler and hot water tank.
- (c) The work to the kitchen mentioned by the Tenant in her evidence was work of which the Landlord's agents were aware at the outset of the lease. The Tenant had notified the Landlord's agents of the required work to the bathroom by Christmas 2010. The Tenant notified the Landlord's agents of further work to be done by means of a letter dated 24th May 2011. The Tenant also sent a letter dated 1st June 2011 to the Landlord which was returned to her 3 weeks later by Royal Mail. On the same date the Tenant telephoned the Landlord's agents regarding work required to the boiler and radiator. The Landlord has not carried out any of the work being complained of to the Committee.
- (d) As at 12 September 2011, being the date of the inspection, the ground floor hallway had a radiator on the end wall to the right of the main door. The radiator was leaking. The carpet around it was soaking. The ceiling of the hallway had a hole of about one square metre. The living room had a patio door leading to the garden. The seal of the patio door was found to be in a satisfactory state. No damage to it was detected. No cause for any draught was found. Off the living room was an alcove. Within the alcove was a fuse box. The fuse box was of an aged type. It appeared to be the original fuse box from the building of the house. The fuses within it tripped upon use of kitchen appliances such as a toaster, microwave or electric kettle. The floorboards in the living room were firm on foot. They did not present any tripping hazard.
- (e) Within the kitchen the double-glazed window had condensation within the glazed unit. The seals of the unit had failed. The kitchen had a back door leading to the garden. There was a gap about 4 mm wide between the outside wall and the top facing of the door frame and extending down the whole length of the right sided facing of the door frame. The door had no handle on the inside. On the outside of the door the handle dangled loose. The door latch and lock did not function to keep the door closed. The kitchen had a wooden panelled ceiling. On the

panelling there was staining through white marks which appeared as splash marks. No cause of this staining was evident.

- (f) Within the kitchen there was a built in series of storage units with worktops. These included a chest of drawers. None of the drawers could be opened. Some sagged down. To the right of the rear door was a worktop above the washing machine. The top lacked an end-support. It was unstable. Adjacent to the rear door was a unit with an electric oven. The oven door appeared dirty from an outside inspection. Above the oven was a cupboard unit with 4 doors. Three of these had defective hinges. They hung loose. Below the oven the cupboard had a missing door. Above the built-in cooker hob there was an extractor fan. The fan appeared dilapidated. The fan had a missing cover. The wiring was dirty and appeared to be hazardous. The kitchen units including the cooking facilities appeared to long pre-date the lease.
- (g) On the first floor the leftmost bedroom had a window. It had no door handle. It was double-glazed. It had condensation within the glazed unit. The seals of the unit had failed. An aerial cable passed between the window and its frame. The cable prevented the window from closing.
- (h) The middle bedroom had a double-glazed window. The window was not fully supported by its hinges. It hung lower than the window space. This prevented it from closing. The window had a sill on the inside. Between the sill and the UPVC window frame there was a gap about 5 to 10 mm wide for a distance of about 20 cm. At its lower right corner the edge of the fixed UPVC window frame had a triangular cutting about 4 cm long and 2 cm deep.
- (i) In the rightmost master bedroom the window was not fully supported by its hinges. It hung lower than the window opening. This prevented it from closing. The fixed UPVC window frame had a triangular cutting at its lower right corner.
- (j) In the rightmost master bedroom there was staining to the ceiling towards the wall with the middle bedroom. This was not damp to touch. Upon testing with an electronic damp meter it did not give off any reading of damp. The ceiling had wires hanging from it which were designed for a light bulb fitting. There was no fitting. There was no sign of any staining on or damp at the outside wall of the bedroom.
- (k) In the bathroom there was a washbasin on a pedestal. It moved a few millimetres from the edge of the wall. Below the washbasin there was a pipe box with missing tiling. Tiling was also missing on the wall below the washbasin. A tile was missing to the right of the door upon entry. The plasterboard panel that would have been below the tile was also missing. Above the shower unit two tiles had been cut out with exposure of the plasterboard beneath. The bath panel was cracked. There was no leak from the toilet.

- (l) The hallway on the first floor had about 4 floorboards which were marginally lower than those surrounding them. They were firm on foot. They did not form a tripping hazard. Off the hallway there was a cupboard with the central heating and water boiler. There was no apparent defect with the boiler.
- (m) There was no smoke or fire alarm in the house at all.
- (n) There was no sign of water ingress inside the bedrooms. The house was one whose exterior wall cavities had been blocked off at the top. An external inspection of the house revealed no reason why water should enter the wall cavities. There was no smell of damp in the house.
- (o) That none of the above defects have been repaired or attended to.
- (p) The evidence of the Tenant and Tony Moorehead stated in paragraphs 10 (except in relation to dripping) and 12 to 15 above.

Reasons for Decision

- 17. In determining whether the house met the repairing standard in section 13 (1) (b) of the 2006 Act the Committee had regard to the age, character, prospective life and locality of the house.
- 18. On the basis of the inspection and the above findings the Committee concluded that the hole in the ground floor hallway ceiling was part of the structure of the house. It was clearly not in a reasonable state of repair. The hole was broken around the edges and was a hazard in respect of the possibility of falling debris. Indeed, given the risk to safety the Committee took the view that the house was not reasonably fit for human habitation for that reason also. In order for a dwellinghouse to be reasonably fit for human habitation it must be fit to be used in safety and with reasonable comfort (**Summers v. Salford Corporation** [1942] A.C. 283, 289 per Lord Atkin). The Committee concluded that in this respect the house did not meet the repairing standard in section 13 (1) (a) and (b) of the 2006 Act.
- 19. The radiator in the downstairs hallway was surrounded by a soaking carpet. There was no other apparent cause for this other than the radiator in the immediate vicinity. The Committee concluded that the radiator in the downstairs hallway was leaking and not in a reasonable state of repair or in proper working order. It follows that in this respect the Committee concluded that the house did not meet the repairing standard in section 13 (1) (c) of the 2006 Act.
- 20. The Committee considered whether the electrical system of the house and in particular the fuse box off the living room was in a reasonable state of repair and in proper working order. On the basis of the age of the fuse box

and the defective working of the electrical system through the tripping, the exposed light bulb wires in the master bedroom and the defect with the shower, the Committee concluded that the installations for the supply of electricity throughout the house were not in a reasonable state of repair and in proper working order and fell below the repairing standard in section 13 (1) (c) of the 2006 Act.

21. The Committee took the view that the windows were part of the exterior of the house. That being the case one question was whether the windows complained of were in a reasonable state of repair and in proper working order. The windows in the kitchen and in the leftmost bedroom with condensation in them had clearly failed. The windows in the middle and master bedrooms were not hanging properly from their hinges such that they could close properly into the window opening. The windows in the leftmost and master bedrooms were also incapable of being properly closed due to the presence of cables. None of these windows were in a reasonable state of repair and not in proper working order. The frames in the middle and master bedrooms had been damaged. All of these windows and frames fell below the repairing standard in section 13 (1) (b) of the 2006 Act. Furthermore the windows in the bedrooms were not wind and water tight. They fell below the repairing standard in section 13 (1) (a) of the 2006 Act.
22. The Committee considered the state of the bathroom. The question was whether the washbasin, shower, or bath were installations for sanitation which were not in a reasonable state of repair and in proper working order. The washbasin was loose from the wall. The shower was not in proper working order due to the faulty electrical system. The bath had a panel that was broken. In these circumstances the Committee took the view that the house failed to meet the repairing standard in section 13 (1) (c) of the 2006 Act. In addition the Committee had to consider whether the defective tiling in the bathroom meant that the structure of the house was not in a reasonable state of repair or not in proper working order. It has been held that in order to be part of the structure of a house a particular element must be a material or significant element in the overall construction but that ultimately it is a question of fact and degree for the decision-making tribunal (**Grand v. Gill** [2011] EWCA Civ. 554; [2011] 3 All E.R. 1043). Thus in the **Grand** case the court held that plasterwork of internal walls was part of the "structure" of the house. The Committee found that the plasterboard in the bathroom had a missing element where a tile was also missing. In these circumstances the structure of the house comprising the plasterboard wall in the bathroom was not in a reasonable state of repair. Does the tiling in a bathroom (separate from the underlying plasterboard) form part of the "structure" of the house ? The Committee was of the view that bathroom tiling is a material or significant part of the construction of the house and therefore part of its structure. Accordingly in respect of the bathroom tiling and missing plasterboard the house failed to meet the repairing standard in section 13 (1) (b) of the 2006 Act.

23. The Committee took the view that the absence of any smoke or fire alarm meant that the house failed to meet the repairing standard in section 13 (1) (f) of the 2006 Act. The Committee took regard of the guidance issued by the Scottish Ministers on provision for detecting fires and for giving warning of them in the shape of Section 2. 11 of the Technical Handbook 2011 Domestic – Consolidated issued under the Buildings (Scotland) Act 2003.
24. The Committee considered whether the kitchen units and drawers, and oven and extractor fan above the hob were in a reasonable state of repair and in proper working order. Their findings were as stated in the findings of fact. The Committee concluded on the basis of these findings that the units above and below the oven, housing the washing machine and the drawers were not in a reasonable state of repair and not in proper working order. The extractor fan similarly failed to meet those standards. In these respects the house failed to meet the repairing standard under section 13 (1) (d) of the 2006 Act. The Committee took the view that given the old condition and dilapidated state of the units and drawers and extractor fan, replacement of all units and worktops and the extractor fan was necessary in order to bring the units, drawers and extractor fan into a reasonable state of repair and proper working order. The Committee took the view that there was insufficient evidence for them to conclude that the oven was not in a reasonable state of repair and not in proper working order. Whilst it was dirty and had evidently not been used for some time that of itself did mean that it was in disrepair or was not in proper working order.
25. The Committee considered whether the patio door in the living room was wind and watertight and whether it, as part of the exterior of the house, was in a reasonable state of repair or in proper working order. The Committee did not find any defect in the patio door. The Committee also considered the condition of the floorboards in the living room and upper hallway. In the light of their findings the Committee was unable to find any reason why the floorboards were not in a reasonable state of repair or not in proper working order. The house did not fail to meet the repairing standard under section 13 (1) (a) or (b) of the 2006 Act in relation to these aspects.
26. The Committee noted that the door to the garden from the kitchen was as stated in the findings in fact. The condition of that door was as stated in the findings in fact. It formed part of the exterior of the house. It could not be said to be in a reasonable state of repair or in proper working order. In this respect the house failed to meet the repairing standard in section 13 (1) (b) of the Act.
27. The Committee also considered the ceilings in both the kitchen and in the master bedroom. In neither case was there anything to show that the ceilings were not in a reasonable state of repair or in proper working order. The splash marks in the ceiling kitchen and the staining in the master bedroom both appeared to be cosmetic. The house did not fail to meet the

repairing standard under section 13 (1) (b) of the 2006 Act in these respects.

28. The Committee considered the complaint by the Tenant about the cavities of the house. The Committee considered carefully whether there was any evidence of water having penetrated the cavities. However it was unable to find any sign of water having penetrated the cavities. The position is reflected in the Committee's findings in fact. Accordingly it finds that the house did not fail to meet the repairing standard in respect of the cavities.
29. In her application to the Panel the Tenant also complained of the presence of slugs in the kitchen. She explained that she had treated this with salts and the slugs had not returned. She confirmed that the boiler was now working. The presence of slugs is not something with which the Committee has power to deal. The working nature of the boiler leads the Committee to conclude that there was no breach of the repairing standard in section 13 (1) (c) of the 2006 Act.
30. The Landlord's agents must have been aware of the defects from at least the Tenant's letter of 24th May 2011. In addition they received a telephone call from the Tenant on or about 1st June 2011. As the Landlord's agents their knowledge in respect of the defects must be imputed or attributed to the Landlord. In addition the Landlord through his agents received intimation of the failure of the house to meet the repairing standard by means of the notice of referral of application sent to him by the PRHP in early July 2011. No work to deal with any of the said breaches of repairing standard was carried out within a reasonable time of the Landlord being aware that work was required to remedy said breaches.

Decision

31. The Committee determined that the Landlord had failed to comply with the duty imposed by section 14 (1) (b), of the Act in relation to the failure of the house to meet the repairing standard as stated above.
32. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24 (2). The decision of the Committee was unanimous.

Rights of Appeal

33. A landlord or tenant aggrieved by this decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.
34. Unless the lease or tenancy between the parties has been brought to an end, the appropriate respondent in such appeal proceedings is the other party to the proceedings and not the Committee which made the decision.

Effects of Section 63 of the 2006 Act

- 35. Where such an appeal is made, the effect of this decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.
- 36. 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.

D Bartos

SignedDate: 23 September 2011.....

David Bartos, Chairperson

Signature of Witness. **C Faulds** Date... 23/9/11.....

Name, address and occupation of the witness (please print):-

CLAIRE FAULDS
 63 LABURNUM AVENUE
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 EAST Lothian
 EH32 0UD
 (NURSE)