

## Notice of a decision to Vary

### A Repairing Standard Enforcement Order

#### Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/AB12/34/13

Re: Property at 25 Kincorth Crescent, Aberdeen, AB12 5AE ("the Property")

#### The Parties:-

MR WESLEY THEVARAJAH residing at 50 Faygate Way, Lower Earley, Reading, RG6 4DA ("the Landlord")

MISS TRACY DUNCAN formerly residing at 25 Kincorth Crescent, Aberdeen, AB12 5AE ("the Tenant")

#### NOTICE TO MR WESLEY THEVARAJAH ("the Landlord")

The Private Rented Housing Committee having determined on 2014 that the **Repairing Standard Enforcement Order** relative to the Property dated 10 March 2014 should be varied, the said **Repairing Standard Enforcement Order** is hereby varied with effect from the date of service of this Notice in the following respects:-

1. The period allowed for the completion of the work required by the order is extended (or further extended) for a further period of 3 months from the date of service of this Notice.

Subsection 25(3) of the Housing (Scotland) Act 2006 does not apply in this case.

**A landlord or a tenant aggrieved by this 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 variation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the variation will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 6/6/14 before this witness:-

**L Johnston** \_\_\_\_\_ witness

**E Miller** \_\_\_\_\_ Chairman

Lindsay Johnston  
Secretary  
Thorntons Law LLP  
Whitehall House  
33 Yeaman Shore  
Dundee  
DD1 4BJ



## Statement of decision of the Private Rented Housing Committee under Section 25 (1) of the Housing (Scotland) Act 2006

prhp Ref: PRHP/AB12/34/13

Re: Property at 25 Kincorth Crescent, Aberdeen, AB12 5AE ("the Property")

### The Parties:-

MISS TRACY DUNCAN formerly residing at 25 Kincorth Crescent, Aberdeen, AB12 5AE ("the Tenant")

MR WESLEY THEVARAJAH residing at 50 Faygate Way, Lower Earley, Reading, RG6 4DA ("the Landlord")

### Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property, determined that the Landlord should be given a further extension of 3 months to the period allowed for completion of the works required in terms of Section 25(1) of the Housing (Scotland) Act 2006 ("the Act")

### Background

1. Reference was made to the determination of the Committee dated 10 March 2014, which determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act in that he had failed to ensure that the Property met the repairing standard. The works required by the RSEO were:-
  - (a) To carry out such works as are necessary to ensure a current and clear gas safety certificate can be issued confirming compliance with the relevant regulations.
  - (b) To carry out such works to the Property as are required to allow a suitably qualified electrician to issue a clear electrical installation condition report confirming compliance with the relevant regulations, and in particular to test and repair/replace the cooker and bathroom fan.
  - (c) To remediate the damage caused to the bathroom by excessive condensation and to bring it up to an appropriate decorative standard.
  - (d) To carry out such works of repair or replacement as are necessary to the downpipe and drain at the front of the Property, sufficient to ensure compliance with the repairing standard.

The RSEO gave the Landlord 6 weeks to carry out the works.

2. By email correspondence dated 27 April 2014, the Landlord emailed the Committee to advise that he had not yet started the works. He intimated that he had some personal difficulties in that he had lost his job lately and had not managed to secure new employment. He also indicated that he was going through a divorce. As a result of this he was suffering from stress and was receiving counselling. The Landlord confirmed that the Property was not currently rented out although he stayed there himself occasionally when

visiting Aberdeen. The Landlord requested a further period of 6 weeks to carry out the works.

3. The Committee considered whether to grant the request of the Landlord to extend the period for the works to be carried out under the RSEO. The Committee noted that at the time of the inspection the Landlord had not re-let the Property and it was unoccupied. The Committee was prepared to accept that this remained the case and that the Landlord did intend to do the works but was simply suffering from personal difficulties at the present time. The Committee was satisfied that it was appropriate to give an extension to the Landlord. The Committee was also conscious that the Landlord would not be able to re-let the Property until the RSEO had been lifted as to do so would be a criminal offence. Accordingly any delay in the RSEO remaining in place simply served to prevent the Landlord letting it out and getting an income from the Property. On that basis the Committee was satisfied that it was in order to give an extension slightly longer than that sought by the Landlord. The Committee was satisfied it was appropriate to give a 3 month extension.

#### **Decision**

4. The decision of the Committee was to grant the Landlord a period of 3 months from the date of this decision to comply with the RSEO.
5. The decision of the Committee was unanimous.

#### **Right of Appeal**

6. **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**

7. 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.

Signed ..... **E Miller** ..... Date *15/6/2014* .....

Chairperson