



**PRIVATE RENTED HOUSING PANEL**

**NOTICE OF A DECISION TO VARY A REPAIRING STANDARD ENFORCEMENT  
ORDER BY THE Private RENTED HOUSING COMMITTEE**

**THE PROPERTY**

**Flat 1/1, 18 Huntly Gardens, Glasgow G12 9AT, registered in the Land Register for  
Scotland under title number GLA84972**

**THE PARTIES**

**Steven Young, residing at the Property (tenant)**

**and**

**Mr Duncan John McAdam, residing at 48 Fernlea, Bearsden G51 1NB  
(landlord)**

**PRHP Ref: RP/15/0166**

**Committee Members – David M Preston (Convener); George Campbell (Surveyor  
Member).**

**NOTICE TO the landlord:**

**The Private Rented Housing Committee, having determined that the Preparing  
Standard Enforcement Order dated 23 December 2015 relative to the property  
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 respect:**

**The period allowed for the completion of the works required by the Order is  
HEREBY extended for a period of further six months.**

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

**A landlord or the tenant aggrieved by this decision of the Private Rented Housing Committee may appeal to the Sheriff by The 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 Thai prison on this and the preceding page are executed by David Michael Preston, Chairman at the place and on the date and in the presence of the witness as detailed below:

D. PRESTON

Chairman

26-06-16.....Date of Signing

GLASGOW.....Place of Signing

R. SULLIVAN

Witness

ROSE SULLIVAN.....Name

142 ST.....Address

VINCENT ST.....

42 SA SLA.....



**PRIVATE RENTED HOUSING PANEL**

**DECISION IN ACCORDANCE WITH PARAGRAPH 6 SCHEDULE TO (2) IN  
RELATION TO MINUTE OF VARIATION OF REPAIRING STANDARD  
ENFORCEMENT ORDER UNDER SECTION 25 OF THE HOUSING (SCOTLAND)  
ACT 2006**

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Member).**

## Decision

Having carried out such further investigations as it considered necessary, and having considered the representations of the parties the Committee HEREBY VARIES the Repairing Standard Enforcement Order dated 23 December 2015 as follows by extending the time limit within which the landlord should carry out the works specified therein by a period of six months from the date of issue of this Minute of Variation to the parties.

1. Reference is made to the Repairing Standard Enforcement Order dated 23 December 2015 which required the landlord to carry out the works specified therein.
2. Following thereon the landlord submitted an Energy Performance Certificate dated 29 February 2016.
3. On 4 April 2016 the surveyor member carried out a re-inspection and his report of that date was sent to the parties. On 26 April the landlord responded to the re-inspection report and took issue with the surveyor's findings. After considering the landlord's response the Committee determined to carry out a further inspection and to hold a further hearing.
4. On 15 June 2016 the Committee attended to carry out a further inspection. The parties were present throughout the inspection, the tenant being accompanied by his support worker, Paul Mallon.
5. The inspection revealed that: the lower sash of the centre bay window was not able to be opened; the lower sash of the side windows were able to be opened; the 2 kW convector electric heater appeared to be still in its box; there was no evidence of recent water ingress on the laminate floor, although traces of the

earlier water staining could be seen. The tenant confirmed that there had been no further ingress for about six months.

6. Following the inspection and hearing was convened at Wellington House, Wellington Street, Glasgow. The landlord appeared at the hearing with his wife, Mrs McAdam. The tenant did not appear and was not represented. At the hearing the tenant indicated initially that he was reluctant to attend the hearing but did say that he would. However following the departure of the Committee his support worker telephoned the office to say that he had changed his mind and would not attend. Accordingly the Committee was satisfied that he had voluntarily decided not to attend and accordingly the Committee was content to proceed with the hearing.
7. The landlord said that he had forgotten to mention, at the inspection, the draft excluder which had been fitted to the front door. He re-iterated that he was not sure as to what required to be done in respect of the insulation of the water tank and that the tenant had declined to have low energy light fittings installed. He submitted that the windows were now wind and watertight. He suggested that if the lower sash in the centre of the bay was to be freed up and able to be opened then there was a danger that it would no longer be wind and watertight. In his view the window was permanently sealed which prevented further water ingress. He submitted that there was sufficient window light and ventilation to conform to current building control standards. He said that he had sought advice on bringing the property up to current regulations but that being a B-listed building he would require consent from historic Scotland who said that in any event the property could only achieve Band E in terms of the Energy Performance Certificate (EPC). If he were required to install double glazing he would require planning permission, building warrant and listed building consent. He pointed out that the tenant had entered a lease some 13 years ago which was prior to the current regulations and maintained that he therefore was not obliged to upgrade the property to the standard of current regulations as they were not retrospective. He

recognised that in the event that he was to enter into a new tenancy then he would be under an obligation to upgrade the property for the purposes of a new lease. He maintained that he did not believe that it was incumbent upon him to carry out such work. He also maintained that as the tenant was in receipt of housing benefit the tenant would be in a position to upgrade the property with the assistance of grant funding which was not available to him. In relation to the heating, he maintained that he had been required to replace the existing heaters and he had done so. He asked the Committee to note that the new heater which had been provided was still in its box and said that when he had previously questioned the tenant about this, the tenant had responded that the house was warm enough. He maintained that it could not be the case that the heater was necessary as it had not been used by the tenant since it had been provided. The landlord re-iterated that in his experience of the particular heaters was that they were sufficient to maintain a reasonable temperature within properties such as the property in question. He disagreed with the surveyor's opinion that the heater was insufficient. The landlord also called upon the tenant to furnish him with the actual costs of heating the property without which the landlord would not be in a position to know what savings could be made. The landlord concluded by confirming that he had conformed to the requirements of maintaining the property as reasonably fit for human habitation. In relation to the level of rent, which had been claimed by the tenant to be excessive, landlord maintained that the market rental would be considerably higher and that, in any event, the tenant's level of rent was set by the benefit agency.

8. The Committee pointed out to the landlord that it was not able to consider the question of the level of rent as the application had been made under the Housing (Scotland) Act 2006. It reminded the landlord that the only involvement with rent under the Act would relate to the question of a Rent Restriction Order if that the Committee determined that the landlord had failed to implement the terms of the RSEO and after issue of a Notice of Failure.

9. The Committee reminded the landlord that it was his obligation to maintain the property to comply with the Repairing Standard as defined in the Act. Whilst the building regulations were not retrospective, the Act did apply to all existing tenancies at the time it came into force and to that extent was retrospective. The Committee was concerned with the Repairing Standard and the issue of planning permission, building warrant and listed building consent were matters for the landlord and other authorities.
10. The Committee referred the landlord to the terms of the EPC which had been obtained by him and which contained the information upon which the Committee had to proceed. The EPC contained a number of recommendations which it was said would improve the energy efficiency rating. The landlord advised that he had obtained a further report which, to an extent, contradicted the EPC. However this had not been provided to the Committee and the landlord was reminded that the Committee was required to proceed on the basis of the evidence placed before it. The Committee reminded the landlord that it was unable to proceed on assertions unless they were supported by evidence from suitably qualified experts or practitioners. If he wished to take issue with the terms of the EPC, such evidence would be required.
11. In the absence of any evidence to support the landlord's assertion that the heater which had been provided was sufficient to heat the flat, the Committee upheld the opinion of the surveyor.
12. The Committee suggested that in relation to the tenant's ability to benefit from grant funding which might assist in improving the energy efficiency of the property it was open to the landlord to come to whatever arrangements could be made with the tenant. Mrs McAdam indicated that previous attempts had been made to communicate with the tenant to this effect, but without success. The Committee advised that it was unable in terms of the legislation to make any order against the tenant to cooperate in such a way but expressed the view that it

hoped that communications could be set up through the tenant's support worker that would allow progress to be made in this regard.

13. The Committee indicated to the landlord that it was satisfied that the issue of water ingress appeared to have been resolved and, unless further water appeared prior to completion of the works, it was satisfied that the windows were wind and watertight and that the identified problem with the flat roof area above the bay window appeared to have been resolved. However the Committee did point out that the windows were not fully operable and that work was required to resolve that.
14. The Committee indicated that it was minded to consider the question of a Variation of the RSEO to provide a reasonable time within which the landlord could carry out the necessary investigations into upgrading the heating system and improving the energy efficiency of the property.
15. It was unfortunate that the tenant was not present at the hearing but the Committee expresses the hope that the tenant, through his support worker, will cooperate with the landlord in carrying out what necessary work will effect an improvement to the energy efficiency of the property.
16. Following the hearing the Committee resumed consideration of the situation and determined that the landlord should continue to carry out such reasonable work as is necessary to improve the energy efficiency in accordance with the terms of the EPC or such other expert opinion as is reasonably obtained.
17. The Committee considered that a period of six months was a reasonable time within which the landlord could complete any further necessary works. In the event that such a time limit proves insufficient then it is open to the landlord to apply for a further extension provided the Committee is satisfied that satisfactory progress is being made with the work.



18. In addition to the above, the Committee draws the attention of the landlord to the requirements of the current Scottish Government statutory smoke detector guidance which can be found on the PRHP website.

18-Jun-16

D. PRESTON

X

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CHAIRMAN

Signed by: DAVID MICHAEL PRESTON

Photographs taken at inspection of 1/1 18 Huntly Gardens, Glasgow G12 9AT  
on 15 June 2016



01 – HW cylinder insulating jacket



02 – existing light fitting in kitchenette



03 – existing light fitting in living room