



**Notice of Revocation of Repairing Standard
Enforcement Order**

Issued by the Private Rented Housing Committee

Under Section 25(1)(b) of the Housing (Scotland) Act 2006

prhp Ref: PRHP/RP/16/0025

Re : Property at 39 East Leven Street, Burntisland, Fife KY3 9DX ("the Property")

Land Certificate No: FFE8369

The Parties:-

**Douglas McLauchlan, 48 Bennachie Way, Forth Ridge, Dunfermline, Fife KY11 8JA, represented by
Martin & Co, Letting Agents, 93 St Clair Street, Kirkcaldy, Fife KY1 2BS ("the Landlord") and**

Monica Turoni, sometime 39 East Leven Street, Burntisland, Fife KY3 9DX ("the Tenant")

NOTICE TO DOUGLAS McLAUCHLAN

("the Landlord")

Considering that the Private Rented Housing Committee determined on 11 November 2016 to issue a Notice revoking the Repairing Standard Enforcement Order relative to the Property made on 27 May 2016, therefore in terms of Section 25(1)(b) of the Housing (Scotland) Act 2006 the Committee hereby revokes the said Order and that with effect from the date specified in Sections 63(4) and (5) of the said Act, being 28 days after the last date on which this decision may be appealed.

A landlord or 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 this decision.

In witness whereof these presents typewritten on this page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade on 11 November 2016 before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian:-

V Clark

witness

G Clark

chairman



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

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Monica Turoni, sometime 39 East Leven Street, Burntisland, Fife KY3 9DX ("the Tenant")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord had carried out the works required by the Repairing Standard Enforcement Order in respect of the Property made on 27 May 2016, or whether the Order should be varied or revoked, and taking account of the evidence led by the Landlord's agent at the hearing, determined that the work required by the Order was no longer required and that the Order should be revoked in terms of Section 25(1)(b) of the Act.

Background

- 1. By application dated 23 January 2016 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 Housing (Scotland) Act 2006 ("the Act").**
- 2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-**
 - (a) the house is wind and water tight and in all other respects reasonably fit for human habitation,**
 - (b) 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,**
 - (c) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order,**
 - (d) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and**
 - (d) the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.**

3. By letter dated 15 April 2016 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
5. The Private Rented Housing Committee inspected the Property on the morning of 27 May 2016.
6. The Committee comprised George Clark (Chairman) and Harry Maclean (surveyor member).
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The New Volunteer House, 16 East Fergus Place, Kirkcaldy KY1 1XY.
8. Following the inspection and hearing, the Committee made a Repairing Standard Enforcement Order ("the Order") in respect of the Property.
9. The Order required the Landlord to instruct a suitably experienced contractor to carry out such adjustments to the windows in the Property as were necessary to make them wind and water tight and capable of being tilted and turned to enable them to be safely cleaned from the inside and to carry out such works to the radiator in the front bedroom as were required to restore it to proper working order.
10. The surveyor member of the Committee reinspected the Property on 29 August 2016. The Tenant had vacated the Property prior to the original inspection and hearing, so was not present or represented at the reinspection. The Landlord was represented at the reinspection by Myra Blaik of Martin & Co, Kirkcaldy.
11. The surveyor member reported that the window in the front bedroom tilted, but did not close or open inwards properly. The radiator in the front bedroom was not working.
12. A copy of the reinspection report was sent to the Landlord, whose agent made written submissions received on 6 October 2016 to the effect that the window did open and close satisfactorily and that the Landlord had provided a free-standing electric heater for the use of the Tenant in the front bedroom. The Landlord's agent requested a further inspection and hearing.
13. The Committee reinspected the Property on the morning of 11 November 2016. The Tenant, having vacated the Property, was not present or represented at the reinspection. The Landlord was present at the reinspection, as was his agent, Myra Blaik of Martin & Co, Kirkcaldy.
14. Following the reinspection, the Committee held a hearing at Burntisland Burgh Council Chambers. The Tenant was not present or represented at the hearing. The Landlord and his agent both attended the hearing.
15. The Landlord told the Committee that he had removed the radiator in the front bedroom, although he intended to reinstate it when a flushing process could be carried out to the system. He had, however, in any event, provided the Tenant with a free-standing electric radiator. He told the Committee that he had demonstrated at the reinspection that the front bedroom window could be opened inwards and closed.

Summary of the issues

16. The issue to be determined were whether the landlord had carried out the works required by the order and whether a Certificate of Completion to that effect should be issued or whether the Order should be varied or revoked.

Findings of fact

17. The Committee finds the following facts to be established:-
- The tenant has vacated the Property and it has subsequently been re-let. .
 - The window in the front bedroom tilts and closes and opens inwards adequately.
 - The radiator in the front bedroom has been removed. A free-standing electric heater has been provided by the Landlord and was in use at the time of the reinspection

Reasons for the decision

18. The Committee was of the view that the remedial works to the front bedroom window had been completed to an adequate standard, although some further minor adjustment might be advisable. The radiator in the front bedroom was no longer in the Property, so the Committee could not find that the works required by the Order had been completed. The Committee was, however, satisfied that the Landlord had provided an acceptable alternative form of heating for the room in question.
19. For the reason set out in the immediately preceding paragraph, the Committee was unable to conclude that the work required by the Order had been completed, but the Committee determined that the Order was no longer necessary and should be revoked, as the front bedroom window now tilted, opened and closed and there was an acceptable form of heating in the room.

Decision

20. The Committee accordingly determined that the Repairing Standard Enforcement Order in respect of the Property should be revoked in terms of Section 25(1)(b) of the Act.
21. The decision of the Committee was unanimous.

Right of Appeal

22. **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

23. 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 **G Clark** Date: 11 November 2016
Chairperson