



Notice of a decision to Vary
A Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/16/0087

Re : Property at 22 Orchard Street, Aberdeen, AB24 3DL ("the Property")

Title No: ABN52045

The Parties:-

MS JOLANTA JEZIOR, formerly 22 Orchard Street, Aberdeen, AB24 3DL ("the Tenant")

MR VINCELY PAUL ANTHONYMUTHU, 19 Greenmore Gardens, Aberdeen, AB24 4JE ("the Landlord")

NOTICE TO MR VINCELY PAUL ANTHONYMUTHU ("the Landlord")

The Private Rented Housing Committee having determined on 18 May 2016 that the **Repairing Standard Enforcement Order** relative to the Property served on 20 May 2016 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:-

The period allowed for the completion of the work required by the order is extended for a period 14 days 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/

appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page are executed by Gillian Coutts Buchanan, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 29 September 2016 before this witness:-

J Lynch

Jenni Lynch
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ

witness

G Buchanan

Chairperson



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

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Title No: ABN52045

The Parties:-

MS JOLANTA JEZIOR, formerly 22 Orchard Street, Aberdeen, AB24 3DL ("the Tenant")

**MR VINCELY PAUL ANTHONYMUTHU, 19 Greenmore Gardens, Aberdeen, AB24 4JE
("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 an extension of 14 days to the period allowed for completion of the works required all in terms of Section 25(1) of the Housing (Scotland) Act 2006 ("the Act").

Background

1. Reference is made to the determination of the Committee dated 18 May 2016 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 check the electrical wiring system to include in particular the electric immersion heater and repair as necessary to ensure the system is in proper working order and compliant with the repairing standard.
 - b. To complete the installation of sufficient smoke alarms and heat detectors that are mains wired and interlinked and otherwise comply with the requirements of the relevant fire legislation.
 - c. To produce a clear Electrical Installation Condition Report from a suitably qualified electrician confirming that electrical wiring system and the smoke alarms and heat detectors within the property are in proper working order and comply with the relevant regulations with no items marked as Category 1 or Category 2. The Landlord is to exhibit such clear Electrical Installation Condition Report to the Committee.
 - d. To replace the damaged tiling in the shower room to ensure that it is in a reasonable state of repair and fully compliant with the repairing standard.
 - e. To engage a reputable specialist to investigate the source of condensation in the shower room, bedroom and the kitchen of the property and to carry out any works

recommended by that specialist to ensure that the property is wind and watertight and reasonably fit for human habitation, and without prejudice to the foregoing generality, the Committee require the Landlord to have the specialist prepare a report on the source of the condensation and to exhibit this to the Committee.

The RSEO gave the Landlord 28 days to carry out the works.

2. On 11 July 2016 the Surveyor Member of the Committee, Mr David Godfrey, re-inspected the Property on behalf of the Committee. The Landlord was present and gave access to the Property.

The Surveyor Member noted:-

- a. That a smoke alarm had been installed in the hall;
- b. That a smoke alarm/heat detector had been installed in the kitchen;
- c. That the floor tiles in the shower room had been replaced;
- d. That the bedroom had been redecorated and there is now no sign of condensation mould;
- e. That the kitchen had been refitted and redecorated and there is now no sign of condensation mould.

The Surveyor Member noted the following outstanding items:-

- a. The hot water tank and electric immersion heater appeared to be unchanged;
 - b. An Electrical Installation Condition Report had not been commissioned or exhibited.
 - c. A report from a reputable specialist in respect of the condensation within the bedroom and kitchen had not been commissioned or exhibited.
3. The Committee subsequently received representations from the Landlord as follows:-
 - a. By email on 19 July 2016 indicating that a damp survey had been carried out but no report was exhibited.
 - b. By post on 28 July 2016 providing an Electrical Installation Condition Report dated 8 July 2016 prepared by David Walker, Walker Electrical Solutions.
 - c. By email on 30 July 2016 providing a copy of the Electrotechnical Certification Scheme card for David Walker with an expiry date 28 February 2017.
 4. On 28 September 2016 the Committee (comprising Ms G C Buchanan, Chairperson and Legal Member and Mr D Godfrey, Surveyor Member) held a hearing at Credo Centre, 14-20 John Street, Aberdeen and heard from the Landlord.
 5. The Landlord submitted as follows:-
 - (a) That a damp survey had been carried out by Mervyn Paterson of Peter Cox Property Services on 14 July 2016 but that a cost of £240 would be incurred in commissioning a

report. The Landlord stated he would meet the cost of such a report if the Committee so required.

(b) That David Walker is a suitably qualified electrician but that he would instruct another electrician to prepare an further Electrical Installation Condition Report if the Committee so required.

6. The Committee considered how to proceed in light of the documentation received and the Landlord's representations.

The Committee noted the terms of the RSEO which required that a reputable specialist investigate the source of condensation in the bedroom and the kitchen of the Property and prepare a report on the source of the condensation to be exhibited to the Committee. No report had been sought and the Committee could not be satisfied that the Property is free from damp or condensation.

The Committee noted the terms of the EICR prepared by David Walker. David Walker is not currently registered with SELECT. The EICR refers to him as being on the "SELECT Probationary Scheme". The EICR is not properly completed in that Declaration reflects Mr Walker's address as being the Property as opposed to his own business address.

The Committee noted the terms of the Electrotechnical Certification Scheme card for David Walker and his qualifications as detailed thereon. The Committee was satisfied that Mr Walker is suitable qualified.

The Committee considered that the works required by the RSEO had substantially been undertaken by the Landlord and noted that the Landlord is willing to meet the cost of the specialist damp report and a further EICR if required. The Committee determined that it was appropriate to give an extension to allow the Landlord to undertake the remaining tasks required by the Repairing Standard Enforcement Order, namely the production of a specialist damp report and the production of a properly completed EICR by a suitably qualified electrician. The Committee was of the view that a period of 14 additional days would be sufficient. The Committee expects the required works to be completed within that period.

(i) Decision

The Decision of the Committee was to grant the Landlord a period of 14 days from the date of service of this decision to comply with the RSEO.

The decision of the Committee was unanimous.

(ii) Right of Appeal

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.

(iii) Effect of section 63

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.

G Buchanan

Signed
Chairperson

... Date 29 September 2016

A handwritten signature in blue ink, consisting of a large, stylized 'G' followed by a smaller, more compact 'Buchanan'.