



**NOTICE TO LOCAL AUTHORITY**  
**ISSUED BY**  
**THE PRIVATE RENTED HOUSING COMMITTEE**  
**UNDER SECTION 26(2) OF THE HOUSING (SCOTLAND) ACT 2006**

prhp Ref: Prhp/EH54/119/11

**RE: PROPERTY AT 185 Clement Rise, Dedridge, Livingston EH54 6LP**

(hereinafter referred to as "the house")

**THE PARTIES:**

**Mohsan Javid Syed, 15 Clova Drive, Livingston EH54 9HD ("the Landlord") (care of his agent Laverne Hastie, 36 Argyll Wynd, Carfin, Motherwell ML1 1GJ)**

**AND**

**Vanessa Garner, 145 Huron Avenue, Howden, Livingston EH54 6LQ ("the Former Tenant")**

Notice is hereby given to West Lothian Council, being the local authority in which the house is situated, that there has been a failure by the Landlord to comply with a Repairing Standard Enforcement Order in relation to the house in terms of Section 26(1) of the Housing (Scotland) Act 2006. The Statement of Decision of the Private Rented Housing Committee under Section 26(1) of the said Act is attached hereto and referred to for its terms.

The tenancy which gave rise to the Repairing Standard Enforcement Order has been terminated. Accordingly no Rent Relief Order has been made under Section 27 of the said Act.

If an appeal against the decision of the Private Rented Housing Committee is made, then the effect of the decision is suspended until the appeal is abandoned or finally determined. In the event that the decision is confirmed, then the decision will be effective 28 days from the date on which the appeal is abandoned or so determined. If an appeal is received then the Private Rented Housing Panel will notify you of this and the eventual outcome of the appeal.

The date of service upon the Landlord of the decision under Section 26 of the Act is hereby certified to be 5 November 2012. Given the termination of her tenancy the decision has not been served on the Former Tenant.

In witness whereof these presents type-written on this and the preceding and attached pages are executed by David Bartos, Advocate, Advocates' Library, Parliament House, Parliament Square, Edinburgh EH1 1RF, chairperson of the Private Rented Housing Committee at Glasgow on 7 November 2012 before this witness:-

**I MacLean**

witness

IAN MACLEAN name in full

150 ARGYLE ST, GLASGOW Address

FL 6LU

PANEL CLERK Occupation

**D Bartos**

chairperson



**Decision of Private Rented Housing Committee  
under Section 26 (1) of the Housing (Scotland) Act 2006**

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 26(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, 145 Huron Avenue, Howden, Livingston EH54 6LQ ("the Former Tenant")**

**Mohsan Javaid Syed, 15 Clova Drive, Livingston EH54 9HD ("the Landlord"),  
(care of his agent Laverne Hastie, 36 Argyll Wynd, Carfin, Motherwell ML1 1GJ)**

**The Committee comprised:-**

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

**Decision**

1. The Committee decided that the Landlord had failed to comply with part (c) of the Repairing Standard Enforcement Order dated 23 September 2011 as varied on or about 7<sup>th</sup> November 2011 and on or about 27<sup>th</sup> April 2012 which obliged the Landlord within 21 days of the service of the second notice of variation:

"to instruct the whole electrical system of the house to be investigated by an electrician of a contractor registered with the National Inspection Council for Electrical Installation Contracting (NICEIC) to obtain from such electrician

(a) a report confirming that there are no items in the house adversely affecting electrical safety and in particular that none of the items listed 1 to 14 on page 2 of the Domestic Electrical Installation Condition Report from R. Smith of Livingston Property Maintenance Ltd dated 6<sup>th</sup> February 2012 continue to adversely affect electrical safety; failing which in whole or in part

(b) 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”

2. The Committee decided not to make a rent relief order.

**Background:-**

1. The Committee issued a Repairing Standard Enforcement Order (“RSEO”) in respect of the house dated 23 September 2011. The Committee issued a variation of the RSEO on or about 4 November 2011. In terms of that variation the works in the RSEO required to be completed by 25 November 2011. On 30<sup>th</sup> November 2011 Mr Mowatt carried out a reinspection of the house. He found that the work remained uncompleted in material respects. Owing to uncertainty over whether the tenancy was continuing and any continuing interest of the Tenant, and that the works were continuing the Committee took no decision on failure to comply with the RSEO at that stage. On 2<sup>nd</sup> February 2012 Mike Links, a surveyor instructed by the Committee carried out a reinspection of the house. He found that the works had been completed apart from those in parts (c), (k) and (l) of the RSEO. He produced a Re-inspection Report dated 3<sup>rd</sup> February 2012 which is referred to for its terms. He was told by the Landlord’s then agent, Stephen Kerr of J & C Property Lettings that an electric certificate had been obtained in respect of part (c) of the RSEO. He was also advised by the agent that part (l) (smoke alarms) would be attended to as soon as possible.
2. The Landlord’s first agents thereafter forwarded to the Committee :
  - (1) pages 1 and 2 of a 7 page “Domestic Electrical Installation Condition Report” from an R. Smith of Livingston Property Maintenance Ltd dated 6<sup>th</sup> February 2012;
  - (2) “Domestic Periodic Inspection Report for an Electrical Installation” from an Alex Boyd of A.C. Electrical Services dated 12<sup>th</sup> February 2012.
3. Following receipt of this information, the Committee enquired with the National Inspection Council for Electrical Installation Contracting (“NICEIC”) whether any of the said individuals’ firms were registered with them. By e-mail dated 12<sup>th</sup> March 2012 addressed to the Clerk of the Committee the NICEIC confirmed that neither of the firms were registered with the NICEIC.
4. The Livingston Property report made no reference to the part (c) of the RSEO. It stated that the purpose for which it was required was “change of occupancy and installation of new consumer board, upgrading earthing to gas and water and installation of two mains smoke detectors”.
5. It found the overall assessment of the electrical installation to be unsatisfactory in terms of its suitability for continued use. It referred the reader to page 3 for a summary of the general condition of the installation in terms of electrical safety but the Committee were not supplied with

pages 3 to 7 of the report. On page 2 of the Livingston Property report, two items were found to present danger and risk of injury and requiring immediate remedial action. Some further 7 items were found to be potentially dangerous requiring urgent remedial action and some 5 items were found to be recommended for improvement.

6. By letter to the Landlord's agents issued on or about 2<sup>nd</sup> April 2012 the Committee's clerk intimated to the Landlord the said re-inspection report, the e-mail from the NICEIC and the Scottish Government guidance on smoke alarms and invited the Landlord to comment on whether there had been failure to comply with the RSEO.
7. By e-mail of 16<sup>th</sup> April 2012 the Landlord's new agent and property manager Laverne Hastie stated,
 

*"I can advise that all electrical works have been fully completed by a qualified electrician, both from Livingston Property Maintenance Ltd and A.C. Electrical Services. I am however aware that these company's [sic] are not approved NICEIC contractors. Again we were never made aware that this was the case, otherwise I would have researched into having the work carried out as requested by NICEIC contractor. I only hope and ask that under the circumstances you may re-consider that it has to be carried out by NICEIC due to the fact that the work has definitely been undertaken by qualified companies."*

The Committee considered that the request in the last sentence amounted to an application for a variation of part (c) of the RSEO.
8. By their decision of 27<sup>th</sup> April 2012 the Committee decided to refuse to vary part (c) of the RSEO as requested by the Landlord but instead varied it to make it reflect the terms stated in the Committee's decision. The Landlord was given a further opportunity to have the house checked by an NICEIC contractor or electrician from such a contractor. The second variation of 27<sup>th</sup> April 2012 was intimated to the Landlord's agent on or about 6<sup>th</sup> June 2012 by e-mail and recorded delivery post. There has been no response from the Landlord's agent or the Landlord.
9. On 15<sup>th</sup> August 2012 the Committee's surveying member carried out a further re-inspection of the house. He was admitted by a Mr Charles Bird who claimed to be the father of a fresh tenant. A Scott Hewie of Your Home Your Way purporting to represent the Landlord was also present. All work except that in part (c) of the RSEO had been carried out. By letter to the Landlord's agent issued on or about 9<sup>th</sup> October 2012 she was issued with Mr Mowatt's re-inspection report and a form requesting the intimation of reasons why all works had not been completed. No intimation from the Landlord or any agent of his as to why part (c) of the RSEO has not been complied with has been received. The Committee decided that in the light of the evidence before it and the absence of any explanation for non-compliance a hearing was unnecessary.

## **Findings of Fact**

10. Having considered all the evidence, the Committee found the following facts to be established:-

- (a) The RSEO dated 23 September 2011 as twice varied was served on the Landlord on or about 6<sup>th</sup> June 2012. The Landlord had 21 days to comply with part (c) of the RSEO as varied.
- (c) No report or certificate from an NICEIC registered contractor or electrician from such contractor has been obtained.
- (d) By the end of 2011 the tenancy of the Former Tenant who had made the application to the PRHP had been mutually renounced and terminated.

## **Reasons for Decision**

11. The Committee could see no evidence that part (c) of the RSEO had been complied with. The necessity for the report or other documentation from an NICEIC registered electrical contractor was explained in detail in the Statement of Reasons for the second variation at the end of April 2012. In short the Committee requires to be satisfied from a reliable source that the matters in particular in the electrical condition installation report from 6<sup>th</sup> February 2012 have been attended to. The Landlord appears to have ignored or disregarded the varied RSEO and purported to re-let the house in apparent violation of the criminal prohibition on re-letting while an RSEO remains in place.

12. The Committee could not make a rent relief order in relation to the tenancy that had triggered the application because it had terminated at the end of 2011. The Committee considered whether it could make a rent relief order in respect of the new tenancy but took the view that the legislation did not permit this. In addition it had no information as to the new apparent tenancy. This is perhaps an area where the existing legislation could be tightened up in the future.

## **Decision**

13. The decision of the Committee set out above was unanimous.

## **Rights of Appeal**

14. 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.

15. 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 Private Rented Housing Panel whose Committee which made the decision.

**Effects of Section 63 of the 2006 Act**

16. 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.

17. 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.

Signed **D Bartos** Date: ~~October~~ *DB. November 1st*  
2012.....

David Bartos, Chairperson

**G Wardlow**  
Signature of Witness..... Date *1/11/12*.....

Name *Gemma Wardlow*  
Address..... *Europa Building*  
*450 Argyle Street*  
Occupation *PRHP Clerk*.....