



**Notice of Variation
of
A Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee**

Re 6 Kelvin Court, Troon, KA10 6RD being the subjects registered in the Land Register of Scotland under title number AYR25831 ('the Property')

The Parties:-

Miss Sharon Mill residing at 6 Kelvin Court, Troon, KA10 6RD ("the tenant")

Mr Hue Sweeney residing at 4 Chalmers Road, Ayr, KA7 2RQ ("the landlord")

NOTICE TO Mr Hue Sweeney ("the Landlord")

The Private Rented Housing Committee having determined on 19th February 2015 by Determination dated 25th February 2015 that the **Repairing Standard Enforcement Order** relative to the Property served on 10th September 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 respect:-

The period allowed for the completion of the work required by the order is extended until 17th April 2015.

Subsection 25(3) of the Housing (Scotland) Act 2006 does 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.

The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the panel or the committee which made the 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.

.. Chairman

25/2/15.....Date


Martin J. McAllister

At SALTCOATS before Andrew Blair,

Solicitor, Witness

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Determination by Private Rented Housing Committee

Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

prhp ref: RP/14/0148

Re 6 Kelvin Court, Troon, KA10 6RD being the subjects registered in the Land Register of Scotland under title number AYR25831 ('the Property')

The Parties:-

Miss Sharon Mill residing at 6 Kelvin Court, Troon, KA10 6RD ('the tenant')

Mr Hue Sweeney residing at 4 Chalmers Road, Ayr, KA7 2RQ ('the landlord')

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the landlord has complied with the repairing standard enforcement order dated 5th September 2014 and served on 10th September 2014 determined that there are still outstanding matters to be dealt with and ordered that the period for complying with the repairing standard enforcement order be extended to 17th April 2015 and that the repairing standard enforcement order be so varied in terms of Section 25 of the Housing (Scotland) Act 2006.

Background

1. By application dated 16th June 2014 the tenant applied to the Private Rented Housing Panel for a determination of whether the landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ('the Act').
2. The matter was referred to a Private Rented Housing Committee comprising Martin McAllister (Chairperson), Mike Links (Surveyor Member) and Jim Riach (Housing Member).
3. The Committee inspected the Property and held a Hearing on 4th September 2014.
4. The Committee made a repairing standard enforcement order in the following terms:

The landlord to carry out the following works within forty two days of intimation of the repairing standard enforcement order:

1. The landlord is to repair or renew all windows in the Property with the exception of the one in the bathroom. Any repair must address corroded hinges and fixtures and missing handles and leave the windows freely opening and closing with handles fitted and be wind and water tight.
2. The landlord is to repair the hot water cylinder so that it does not leak or alternatively replace it.

3. The landlord is to repair or replace three night storage heaters.

The Committee had also noted that the Property did not have adequate smoke detectors in the property.

5. A reinspection by the Surveyor Member was carried out on 20th November 2014 and a reinspection by the Committee was carried out immediately prior to a Hearing taking place on 20th February 2015. The tenant was not present at the inspection on 20th February but was represented by Jacqui Gregory and John Mulholland of Ayr Housing Aid Centre. The landlord was present.
6. The Committee found on inspection that the windows in the Property had been repaired and were in proper working order with functioning handles, hinges and safety catches. The Committee found that the hot water cylinder had not been repaired or replaced and still leaked.
The Committee found that a new electric heater had been installed in the vicinity of one of the non functioning storage heaters.
The Committee found that proper functioning and mains operated smoke detectors had been installed.
7. Following the inspection of the Property the Private Rented Housing Committee held a meeting at Piersland House Hotel, Troon. The tenant was not present and was represented by Jacqui Gregory and John Mulholland of Ayr Housing Aid Centre. The landlord was present.
8. The landlord said that he had fixed the windows and he said that he had brought three electric radiators to the Property and the tenant had told him that she would rather have two of them installed in the bedrooms upstairs rather than downstairs where the three storage heaters are. The landlord said he complied with this request. Ms Gregory said that she had no knowledge of this and could not say if this was correct or not. The landlord said he had been attempting to have the property assessed to ascertain whether or not it and the tenant would qualify for grant funding which would allow a complete new heating system to be installed. The landlord said that he thought the tenant did not want to cooperate with this because she thought it would somehow adversely impact upon her application for a council house. The landlord said that he had done nothing to the hot water cylinder and that, if a new heating system was being installed, the cylinder would be redundant.
9. Ms Gregory said that she had no instructions from the tenant on the issue of the heaters being installed upstairs and she said that she would find out from the tenant what her position is on this matter and she indicated that she would communicate this to the Private Rented Housing Panel.
10. The landlord said that he accepted that the matter of the heaters and the hot water cylinder is outstanding and he accepted that if a new heating system was not to be installed he would have to comply with the repairing standard enforcement order and repair or replace what is there.

11. Findings in fact

The Committee found

11.1 The repairing standard enforcement order has been complied with in respect of the windows.

11.2 Only one of the three night storage heater has been replaced.

11.3 The hot water cylinder still leaks.

12 Reasons

The defects found were observed at inspection and were accepted by the Landlord.

Discussion

The Committee considered whether or not it might be appropriate to make a rent relief order in terms of Sections 26 and 27 of the Act and to serve appropriate notice on the local authority. The Landlord had not complied with the repairing standard enforcement order within the time limit specified. He had however repaired the windows and the Committee considered whether or not this was satisfactory progress in terms of Section 25 of the Act. The Committee accepted that the outstanding issues would become redundant if a new heating system were installed. The Committee considered that the landlord's position appears to be that he had not carried out the work to the cylinder because a combination boiler might be installed if suitable grant funding is made available and that he had not installed the three heaters to replace the storage heaters because the tenant had asked him to position two of them in upstairs bedrooms. The Committee did not have to come to a view on this. It considered that it is for the landlord to comply with the terms of the repairing standard enforcement order. The Committee did, however, find that the landlord had made satisfactory progress in relation to the windows and it also considered that the Landlord had accepted that he would have to deal with the outstanding matters in the repairing standard order. The Committee also noted that the Landlord had installed suitable smoke detectors in the Property although this was not contained within the repairing standard enforcement order. On balance the Committee decided that the Landlord should be given a further opportunity to bring the property up to the repairing standard and to comply with the repairing standard enforcement order. To allow sufficient time for notice to be given and for the Landlord to carry out the work, it was considered that the repairing standard enforcement order should be varied to allow the work to be done by 17th April 2015. Such variation is on terms of Section 25 of the Act. The Decision of the Committee was unanimous.

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the landlord has complied with the repairing standard enforcement order dated 5th September 2014 and served on 10th September 2014 determined that there are still outstanding matters to be dealt with and ordered that the period for complying with the repairing standard enforcement order be extended to 17th April 2015 and that the repairing standard enforcement order be so varied in terms of Section 25 of the Housing (Scotland) Act 2006.

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.

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.

Signed
Martin J. McAllister
Chairperson

.....25 February 2015