

**Notice of a decision to Vary**

**A Repairing Standard Enforcement Order**

**Ordered by the Private Rented Housing Committee**

**prhp Ref: PRHP/RP/14/235**

**RE: Property at 42 Gladstone Place, Woodside, Aberdeen, AB24 2RU  
("the Property")**

**The Parties:-**

**MARK JONATHAN BERRY and MRS FIONA KEDDIE or BERRY, Spouses residing together at 10 Herd Crescent, Johnshaven, Montrose, Angus ("the Landlords")**

**MR GRANT WEBSTER residing at 42 Gladstone Place, Woodside, Aberdeen ("the Tenant")**

**NOTICE TO THE EXECUTOR'S OF THE MARK JONATHAN BERRY and MRS FIONA KEDDIE or BERRY ("the Landlords")**

The Private Rented Housing Committee having determined on 28 September 2015 that the **Repairing Standard Enforcement Order** relative to the Property dated 9 April 2015 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:-

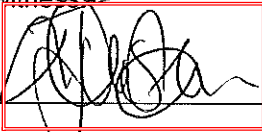
1. The period allowed for the completion of the work required by the order is extended for a further period of 6 weeks from the date of service of this Notice.

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

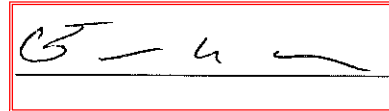
**A landlord or a tenant aggrieved by this decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.**

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 is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 28 September 2015 before this witness



witness



Chairman

Lindsay Johnston  
Secretary  
Thorntons Law LLP  
Whitehall House  
33 Yeaman Shore  
Dundee  
DD1 4BJ



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

prhp Ref: PRHP/RP/14/235

RE: Property at 42 Gladstone Place, Woodside, Aberdeen, AB24 2RU ("the Property")

### The Parties:-

MR GRANT WEBSTER residing at 42 Gladstone Place, Woodside, Aberdeen ("the Tenant")

MARK JONATHAN BERRY and MRS FIONA KEDDIE or BERRY, Spouses residing together at 10 Herd Crescent, Johnshaven, Montrose, Angus ("the Landlords")

### Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property determined that the Landlords should be given a further extension of 6 weeks to the period allowed for completion of the works required in terms of Section 25(1) of the Housing (Scotland) Act 2006 ("the Act").

### Background

1. Reference was made to the determination of the Committee dated 9 April 2015 which determined that the Landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Act and that they had failed to ensure that the Property met the repairing standard. The works required by the RSEO were:-
  - (a) to carry out such works as are necessary to render the Property and, in particular, the rear elevation properly wind and watertight and free from damp penetration and water ingress. The Landlords will require to carry out any redecoration works that are required after such repair/remedial works have been done.
  - (b) To replace any areas of damaged plasterboard within the lounge and bedroom of the Property and to carry out any appropriate redecoration required.
  - (c) Such works of repair or renewal to the kitchen sink/draining board to ensure that the draining board connects into the plumbing system and that excess water is properly disposed of.

The RSEO gave the Landlords 3 months to carry out the works.

2. On 30 July 2015 the Surveyor Member of the Committee reinspected the Property. There was no evidence of any further works having been undertaken to the rear elevation externally since the initial inspection by the Committee. Mrs Berry of the Landlords confirmed that no further works had been undertaken.

In relation to the lounge, the Tenant indicated the area of plaster to the left of the window had been "skimmed over". When tested with a damp meter, high readings were detected to the fresh plaster. It was possible that this was residual dampness in the plaster at that point but, in the professional opinion of the Surveyor Member, it seemed more likely that the underlying problem of rising/penetrating dampness or rubble build up had not been

repaired properly. Holed areas to the right of the window ingo had been patched and the patched areas were dry when tested. However, original areas of plaster beneath the window and to the right ingo were found to have high levels of dampness.

In the bedroom the missing area of plaster to the window soffit had been replaced with plasterboard. When tested with the damp meter these areas were found to have normal levels of moisture.

In relation to the issues with the kitchen sink/draining board, a connection had been formed between the draining board and the plumbing beneath the kitchen sink. However, when a tap was run the joint beneath the sink leaked. The connection appeared to be cross threaded. The Tenant pointed out that the sink was now loose in the hole in the worktop and the sealant was in poor order. The Surveyor Member confirmed this to be the case.

While the Committee was satisfied that the works carried out to the bedroom had addressed the outstanding issue, no material works had been carried out to the rear elevation of the Property and there was still damp internally in the lounge. There also appeared to still be issues in relation to the kitchen sink and draining board.

The reinspection report was circulated amongst the parties. The Landlords commented that whilst they accepted they still had further works to do they had been unable to gain access. They were of the view that the Tenant was being difficult in providing access and possibly making himself deliberately unavailable. He had not notified them that he was going abroad.

Conversely the Tenant's submitted that the Landlords were delaying in the carrying out of adequate remedial works. The Tenant was making himself available and was not being difficult in their submission. The Tenant's agents submitted that the Tenant had been adversely affected by the condition of the Property and asked that a Rent Relief Order be imposed.

The Committee considered the matter and was not at this stage prepared to impose a Rent Relief Order. Both parties were submitting that the other was at fault and was the cause for works not yet being completed. From the evidence before it, the Committee could not determine which submission was correct.

The Committee was of the view that the Landlords should be given one further chance to ensure that the works are carried out. Accordingly the Committee determined that the period of the RSEO would be extended for a period of 6 weeks to allow the Landlords to do the works. The Committee would stress that the Landlords are to actively seek to carry out the works, they are to instruct tradesmen to do so and such tradesmen should contact the Tenant with proposals for access at a suitable time and upon reasonable notice. The Committee fully expect the Tenant to comply with any request for access at a reasonable time and upon reasonable notice.

The Committee fully expects the works to be completed within this period. In the event that confirmation that the works are complete is not received by both parties by the expiry of the six week period, there shall be a further inspection and hearing of the full Committee on Wednesday 18th November 2015 to allow the Committee to reach a final determination on this matter. The Committee would trust that this will prove to be an unnecessary step.

#### **Decision**

3. The decision of the Committee was to grant the Landlords a period of 6 weeks from the date of this Decision to comply with the RSEO.
4. The decision of the Committee was unanimous.

**Right of Appeal**

5. A Landlords 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**

6. 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 ..... S - U - n ..... Date..... 28/2/15 .....

Chairperson