



Notice of a decision to Vary

A Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re 73 Henry Street, Langholm, DG13 0AR being the subjects registered in the land Register of Scotland under title number DMF18802 ('The Property')

The Parties:-

Alan R Currie residing formerly at 73 Henry Street, Langholm, DG13 0AR ('The former Tenant')

Catherine Morrison residing at Harbour View, Morvern Hill, Oban, PA34 4RW and James Kilcullen residing at 3 Barclay Court, Old Kilpatrick, Glasgow, G60 5HX ('The Landlords')

Case Ref No: PRHP/RP/14/0242

NOTICE TO The Landlords

The Private Rented Housing Committee having considered the Landlords' application to have The **Repairing Standard Enforcement Order** ('RSEO') revoked or varied determined that the RSEO should be VARIED as follows:

1. The following items of the RSEO should be revoked as these items have been satisfactorily completed:

- (5) Repair or replace the front and back doors to render them wind and water tight.*
- (7) Repair the broken guttering at the rear of the Property.*
- (8) Install smoke alarms in the living room and hall of the Property and install a heat alarm in the kitchen of the Property. All alarms to be hardwired and interlinked and comply with the Repairing Standard.*

2. The date for completion of the following outstanding works:

- (1) Repair the solid fuel fire, flue and chimney stack to render them in a reasonable state of repair and proper working order.
- (2) Repoint the gable wall as required to render it in a reasonable state of repair and proper working order.
- (3) Repair the back boiler to render it in proper working order.
- (4) Repair or replace the broken bath and
- (6) Repair the rear garden fence.

is extended to 30th April 2016.

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 typewritten on this and the preceding page are executed by Jacqui Taylor, Solicitor, Chairperson of the Private Rented Housing Committee at Irvine on 26th October 2015 before the undernoted witness:

J TAYLOR

Signed..... Date 26th October 2015

Chairperson
K BYRNE

.....witness: KEIRSTEN BYRNE, 65, High Street, Irvine



Determination by Private Rented Housing Committee

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

Re 73 Henry Street, Langholm, DG13 0AR being the subjects registered in the land Register of Scotland under title number DMF18802 ('The Property')

The Parties:-

Alan R Currie residing formerly at 73 Henry Street, Langholm, DG13 0AR ('The former Tenant')

Catherine Morrison residing at Harbour View, Morvern Hill, Oban, PA34 4RW and James Kilcullen residing at 3 Barclay Court, Old Kilpatrick, Glasgow, G60 5HX ('The Landlords')

Case Ref No: PRHP/RP/14/0242

Decision

The Committee, having considered the Landlords and their agents representations for the purposes of determining whether the Repairing Standard Enforcement Order should be revoked or varied determined that the order should varied.

Background

1. The Repairing Standard Enforcement Order relative to the Property dated 16th April 2015 (hereinafter referred to as 'RSEO') required the Landlords to:-

- (1) Repair the solid fuel fire, flue and chimney stack to render them in a reasonable state of repair and proper working order.
- (2) Repoint the gable wall as required to render it in a reasonable state of repair and proper working order.
- (3) Repair the back boiler to render it in proper working order.
- (4) Repair or replace the broken bath.
- (5) Repair or replace the front and back doors to render them wind and water tight.
- (6) Repair the rear garden fence.
- (7) Repair the broken guttering at the rear of the Property.
- (8) Install smoke alarms in the living room and hall of the Property and install a heat alarm in the kitchen of the Property. All alarms to be hardwired and interlinked and comply with the Repairing Standard.

The RSEO specified that these works must be carried out and completed by 31st July 2015.

2. The Committee members were Jacqui Taylor (Chairperson), Alexander Carmichael (Surveyor Member) and Ahsan Khan (Housing Member).
3. Messrs Brazenall & Orr, Solicitors as agents for the Landlords, requested the variation or revocation of the RSEO.

They sent written representations in the following terms:

'The Tenant renounced and vacated the Property on 6th July 2015. The current owners do not intend to re-let the property. They have withdrawn from the Landlord Registration. Mr Kilcullen who is one of the joint owners intends to carry out the repairs to the Property and to move into the Property once the work has been carried out. The work to be carried out to the Property includes re-pointing and lining a chimney. The cost of this work will require to be shared with the proprietor of the upstairs flat. The owners have to reach agreement with the proprietors of the upstairs flat as to the works to be carried out and the costs of sharing the works. This may take some time to get sorted out. With regard to the repairs to the bathroom Mr Kilcullen plans to renew the bathroom suite rather than the bath.

In respect of the back and front doors the parties were considering lowering the level of the ceiling in the living room and bedroom and the obtaining loft insulation as there was quite a bit of noise travelling through from upstairs. The owners were looking into what Government initiatives were available to help with the costs of these works.

Mr Kilcullen works off shore and anticipates being able to attend to all these works in the autumn when his work schedule quietens down.

The rear garden fence and guttering had to be taken care of but this would not take too long.

The owner would ask the Committee to consider a variation or revocation of the RSEO this is on the basis that the owners do not intend to relet the Property. It is their intention to carry out the remedial works to the Property and to live in the Property themselves. The owners are fully aware of their obligations and understand that if they were to let it out they would have to bring the property up to a tenantable standard.'

Inspection

4. The Committee members Jacqui Taylor, (Chairperson) and Alexander Carmichael (Surveyor Member) attended at the Property on the morning of 21st October 2015. The Tenant had vacated the Property and in relation to the required repairs they found:
 - (1),(2) and (3) The old fire had been removed and repairs to the fire, flue, chimney stack and gable wall were ongoing.
 - (4) The bath had not been repaired but the Mr Kilcullen advised that he intended to install a new bathroom suite.
 - (5) The front and back doors had been satisfactorily repaired to render them wind and water tight.
 - (6) The rear fence had not been repaired.
 - (7) The guttering at the rear of the Property had been satisfactorily repaired.
 - (8) Smoke alarms had been installed in the livingroom and kitchen and a heat detector had also been installed in the kitchen.Photographs were taken during the re-inspection and are attached as a Schedule to this report.

Hearing

5. Following the inspection of the Property the Committee held a hearing at The Buccleuch Centre, Buccleuch Place, Langholm. Mr John Kilcullen (one of the Landlords) and his partner Grace Mitchell and also Mr Kilcullen's solicitor Jill Irvine attended the hearing.

Jill Irvine requested that the RSEO be revoked as the Tenant had vacated the Property. She explained that section 12(1) of the Housing (Scotland) Act 2006 details the Tenancies to which the Repairing Standard Duty applies. As there is no longer a tenancy in place she submitted that there is no longer an obligation on her client to comply with the Repairing Standard. Also as the Tenant had vacated the Property she submitted that the application is deemed to have been withdrawn in terms of section 7(1) of Schedule 2 of the Act.

Separately Mr Kilcullen advised the that Committee that he would hope to have the outstanding works completed within 6 months.

Decision

6. The Committee considered the written representations and the parties' submissions. They were mindful that Section 7 of Schedule 3 of the Housing (Scotland) Act states that the Committee may still determine the application even although the lease has been lawfully terminated. Consequently it is the intention of the legislation that the RSEO should remain in place even although the original tenants have vacated the Property, until such time as the required works have been completed.

The Committee members Jacqui Taylor and Alexander Carmichael agreed that they would not revoke the RSEO. However they were satisfied that items (5) (7) and (8) of the Repairing Standard Enforcement Order had been satisfactorily completed. They further agreed to vary the RSEO to extend the period for completion of items (1),(2),(3),(4) and (6) of the RSEO to 30th April 2016.

7. The Committee therefore decided that they would vary the RSEO as stated.
8. The decision of the Committee was a majority decision.

Right of Appeal

9. **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

10. 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.

J TAYLOR

Signed
Chairperson

..... Date 26th October 2015