



Notice of a decision to Vary

A Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/14/0255

Re: Property at 15 Wyvis Avenue, Broughty Ferry, Dundee, DD5 3ST ("the Property")

Title No: ANG16733

The Parties:-

THE EXECUTORS OF THE LATE JEFFREY IAN MYERS, late of 15 Wyvis Avenue, Broughty Ferry, Dundee and MS VICTORIA MYERS ("the Landlords")

MISS CAROLANN CURRAN residing at 15 Wyvis Avenue, Broughty Ferry, Dundee, DD5 3ST ("the Tenant")

NOTICE TO THE EXECUTOR'S OF THE LATE JEFFREY IAN MYERS and MS VICTORIA MYERS ("the Landlord")

The Private Rented Housing Committee having determined on 28 September 2015 that the **Repairing Standard Enforcement Order** relative to the Property dated 16 June 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/.....

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:-

L JOHNSTON

E MILLER

Chairman

witness

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/14/0255

Re: Property at 15 Wyvis Avenue, Broughty Ferry, Dundee, DD5 3ST ("the Property")

The Parties:-

MISS CAROLANN CURRAN residing at 15 Wyvis Avenue, Broughty Ferry, Dundee, DD5 3ST ("the Tenant")

THE EXECUTORS OF THE LATE JEFFREY IAN MYERS, late of 15 Wyvis Avenue, Broughty Ferry, Dundee and MS VICTORIA MYERS ("the Landlords")

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 ("RSEO") in relation to the Property, determined that the Landlord 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.

Background

1. Reference was made to the determination of the Committee dated 16 June 2015 which determined that the Landlord 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 of repair or replacement to the light fittings/shades within the lounge to ensure that they are properly compliant with the repairing standard.
 - (b) To repair or replace the front door handle so that the door is capable of being opened and closed properly and that the locking mechanism is in proper working order.
 - (c) To either repair the original fridge freezer within the Property or provide a replacement of equivalent size.
 - (d) To exhibit to the Committee an electrical installation condition report confirming that the electrical installation report confirming that the electrical installation within the Property is in satisfactory condition and showing no items marked "C1" or "C2".
 - (e) To provide a replacement washing machine to the Tenant for her use in the Property.
 - (f) To carry out such works or redecoration to the kitchen ceiling as are necessary to render it compliant with the repairing standard.

The RSEO gave the Landlord one month to carry out the works.

2. On 21 August 2015 the Committee (comprising Mr E K Miller, Chairman and Legal Member and Mr D Godfrey, Surveyor Member) carried out a reinspection of the Property.

The Committee noted that the light fittings/shades within the lounge had not been attended to.

The front door handle had been replaced and the Committee was satisfied that this was now in proper working order.

A replacement fridge freezer had been provided by the Landlords of an appropriate size. However this had not been wired in for the Tenant as ought to have been done. The old fridge freezer had not been collected either. The Tenant was having to run a lead from the fridge freezer across the kitchen floor to a plug. This was a trip hazard and was unacceptable.

A satisfactory electrical installation condition report had been provided.

A replacement washing machine had been delivered. Again, however the Landlords had not arranged for this to be plumbed in and had simply left it in the Tenant's hallway. The old washing machine had not been removed.

The kitchen ceiling had been painted. However, this had been done very poorly and the previous damage was still visible through the paint that had been applied. The work was, in the view of the Committee, unsatisfactory.

Overall the Committee was not satisfied that the Landlords had complied with the repairing standard. Whilst they had provided a replacement fridge freezer and washing machine it was not reasonable to expect a Tenant to then have to carry out further works herself to render them operational and safe. A natural part of the replacement of these items was for the Landlords to attend to the proper installation of them. It was also not reasonable to expect the Tenant to dispose of the old items and the Landlords would require to attend to this.

As highlighted, the Committee was also not satisfied regarding the standard of the works done to the kitchen ceiling.

Subsequent to the reinspection, the Committee advised the Landlords of their view on the matter and the items they expected to be attended to. The Committee requested these matters to be addressed within the next 7 days.

Subsequently both parties responded to the report of the Committee's reinspection. The Landlords alleged, as they had done on several occasions previously, that they would attend to the works but that the Tenant was always very difficult about giving access and was either absent or refused. They submitted that they were willing to do the works but could only do so if access were granted.

The Tenant had an opposite view of the matter and stated that she had always been willing to give access and that remained the position. The Landlords, she alleged, was failing to deal with the works timeously and was seeking to avoid their failures being highlighted by blaming her for a lack of access.

The Committee considered the question of access. The Committee had seen no evidence other than the Landlords submission that the Tenant was being difficult. Similarly the Committee had not seen any evidence from the Tenant that showed that the Landlord was being dilatory and that she was not causing a problem with access. In essence the two parties had completely conflicting views and there was no concrete evidence that allowed the Committee to determine which version of events was correct.

The Committee considered how to proceed here. In light of the difficulty in determining which party was causing the issue, the Committee decided that they would resolve the matter..

The Committee determined that the variation of 6 weeks would be given. The Surveyor Member of the Committee would provide several dates to both parties when he was available to attend at the Property. A date would be agreed when the Tenant would give access and when the Landlord would have tradesmen there to carry out the works.

The Surveyor will attend at the Property on that date and the Landlord will arrange for their workmen to carry out the works. The three remaining items of work are all small and can be completed quickly. The Committee fully expect both the Landlord and the Tenant to comply with this decision and to make all efforts to ensure that tradesmen are available and access is granted on the chosen date.

Decision

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

Dates will be provided by the Committee and a work date will be agreed when the Tenant will give access and the Landlord will carry out the works.

4. The decision of the Committee was unanimous.

Right of Appeal

5. **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

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.

E MILLER

Signed Date..... *29/10/15*
Chairperson