



## **Notice of Variation of**

### **Repairing Standard Enforcement Order**

**Ordered by the Private Rented Housing Committee**

**prhp ref: RP/15/0061**

**Re Rowanlea, 5 Breakish, Isle of Skye, IV42 8PY, being the subjects registered in the Land Register of Scotland under title number INV 15494 ('the Property')**

#### **The Parties:-**

**Mrs Tracie Barker, residing at the Property ("The Tenant")**

**Mr Philip Kirkland, residing at 1 The Pastures, Stocksfield, Northumberland, NE43 7NG AND Ms Sarah Wilson, residing at 12 Edith Street, Dudley, Northumberland ("The Landlord")**

**Private Rented Housing Committee: Martin McAllister, legal member and Andrew Taylor, surveyor member.**

#### **NOTICE TO**

**Philip Kirkland and Sarah Wilson**

**NOTICE TO Mr Philip Kirkland and Ms Sarah Wilson ("the Landlord")**

The Private Rented Housing Committee having determined on 11<sup>th</sup> August 2015 that a Repairing Standard Enforcement Order be made in respect of the Property and , having received representations from the Landlord, considers it appropriate to vary the Repairing Standard Enforcement, it is now 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 8<sup>th</sup> April 2016.**

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.

**Martin G McAllister**

Signed.

Date 8<sup>th</sup> February 2016

**Paula Sinclair**

Saltcoats

...witness: Paula Sinclair 51 Hamilton Street,



## **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**

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#### **The Parties:-**

**Mrs Tracie Barker, residing at the Property ("The Tenant')**

**Mr Philip Kirkland, residing at 1 The Pastures, Stocksfield, Northumberland, NE43 7NG AND Ms Sarah Wilson, residing at 12 Edith Street, Dudley, Northumberland ("The Landlord")**

**Private Rented Housing Committee: Martin McAllister, legal member and Andrew Taylor, surveyor member.**

#### **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 11<sup>th</sup> August 2015 and having received representations from the Landlord determined that there are still outstanding matters to be dealt with, ordered that the period for complying with the repairing standard enforcement order be extended to 8<sup>th</sup> April 2016 and that the repairing standard enforcement order be so varied in terms of Section 25 of the Housing (Scotland) Act 2006 ( the 2006 Act).**

#### **Background**

- 1. By application dated 11<sup>th</sup> February 2015 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) and Andy Taylor, (Surveyor Member).
3. The Committee inspected the Property and held a Hearing on 6<sup>th</sup> August 2015.
4. The Committee made a repairing standard enforcement order in the following terms:
  1. **Engage a suitably qualified drainage professional to examine, test and report on the operation of the external drainage installation and septic tank; carry out any recommendations highlighted in that report and leave the complete soil and rainwater system in proper working order including clearing accumulated sewage at rodding eye and garden area and making good rodding eye and affected landscaping.**
  2. **Engage a suitably qualified heating engineer to reconnect the oil tank and boiler, provide a suitable base for the oil tank, fully test, service and commission the central heating system and leave in proper safe working order.**
  3. **Provide and install smoke detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5839 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under Section 2 -Fire, Sub-section 2.11 Communication.**

**The Landlord was required to carry out the works itemised in 1- 3 inclusive within six months of intimation of the repairing standard enforcement order.**

5. On 3<sup>rd</sup> February 2016, Mr Kirkland wrote to the Private Rented Housing Panel and gave details of the work that had been carried out. This was supported by a considerable number of photographs.
6. The Committee considered matters on 5<sup>th</sup> February 2016 and noted that the letter disclosed that the smoke detectors had not yet been installed and that Mr Kirkland would be overseas until 3<sup>rd</sup> March 2016.

7. The Committee accepted that a considerable amount of the work required by the RSEO had already been done and in all the circumstances considered it reasonable that the Landlord be given more time to complete the work.
8. The Committee determined that

**The period allowed for the completion of the work required by the order is extended until 8th April 2016.**

9. In determining the matter the Committee had regard to the terms of Section 25 (1), (2) and (3) of the 2006 Act. The Committee considered that the Landlord had demonstrated that satisfactory progress had been made and that it was reasonable to vary the RSEO to allow more time for the Landlord to complete the work.

### **.9. Findings in fact**

The Committee found

9.1 The repairing standard enforcement order has not been complied with.

9.2. Some of the work required by the RSEO has been completed and some is outstanding.

### **10.Reasons**

The detailed letter form the Landlord with accompanying photographs.

### **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.

**Martin J McAllister**

Signed ..

Martin J. McAllister  
Chairperson

... 8<sup>th</sup> February 2016