



## Notice of a decision to Vary

### A Repairing Standard Enforcement Order

#### Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0123

Re : Property at Property at 2 Pitfour Crescent, Fetterangus, Peterhead, AB24 4EL ("the Property")

Title Number: ABN28902

**The Parties:-**

FRANCES MALLEY, 2 Pitfour Crescent, Fetterangus, Peterhead, AB24 4EL ("the Tenant")

JAMES THOMSON GARDINER, 14 Wrightlands Crescent, Erskine, PA8 7BZ ("the Landlord")

#### **NOTICE TO JAMES THOMSON GARDINER ("the Landlord")**

The Private Rented Housing Committee having determined on 14 December 2015 that the **Repairing Standard Enforcement Order** relative to the Property served on 23 September 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 two months 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(s) are executed by Ewan K Miller, solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, chairperson of the Private Rented Housing Committee at (location signed) on 14 January 2016 before this witness:-

C Robertson

E Miller

\_\_\_\_\_  
witness  
Claire Robertson  
Legal Secretary  
Whitehall House  
33 Yeaman Shore  
Dundee  
DD1 4BJ

\_\_\_\_\_  
chairman



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

prhp Ref: PRHP/RP/15/0123

Re: Property at 2 Pitfour Crescent, Fetterangus, Peterhead, AB24 4EL ("the Property")

### The Parties:-

FRANCES MALLEY, 2 Pitfour Crescent, Fetterangus, Peterhead, AB24 4EL ("the Tenant")

JAMES THOMSON GARDINER, 14 Wrightlands Crescent, Erskine, PA8 7BZ ("the Landlord")

### Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property determined that the Landlord should be given an extension of two months 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 23 September 2015 which determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act and that he had failed to ensure that the Property met the repairing standard. The works required by the RSEO were works of repair and/or replacement to the shower enclosure and tiling at the Property as were necessary to ensure that no further water penetration occurred to the remainder of the Property and that the shower and enclosure were in proper working order.

The RSEO gave the Landlord a period of twenty eight days from the service of the RSEO to carry out the works.

2. Following the expiry of the said period of 20 days after service of the RSEO Mr Angus Anderson, the Surveyor Member of the Committee, attended at the property on 16 November 2015 to carry out a re-inspection. The Tenant was present and provided access. The Landlord was not present. A copy of the re-inspection report and photographs from the re-inspection are annexed hereto for information purposes.

The Surveyor Member reported that the defective shower enclosure, tiling and shower tray had been removed. Rather than replace any of the enclosure or tiling the Landlord had elected to place a new electric shower over the bath together with a shower rail and curtain. The site of the former shower enclosure had not been completely repaired in that decoration works were required. Some dampness was also present to the new wall lining at the site of the old shower and to the plaster above the main entrance door in the room

below. In relation to the new shower dampness was present to horizontal timber surfaces behind the bath tap.

The Committee first considered whether the Landlord had complied with the terms of the RSEO. The original RSEO had required the shower and enclosure to be repaired or replaced. The Committee was a little disappointed with the course of action the Landlord had elected to take. The intention had been for the existing enclosure to be replaced and made good. What was left was now a rather ugly plinth. However, the Committee was satisfied that the Tenant still did have a working shower and enclosure, albeit now located in a new position.

The Committee was not satisfied that the appropriate redecoration works around the site of the shower enclosure had been completed and this would require to be attended.

In relation to the damp it was not clear whether this was residual damp that was drying out or whether the repairs had been ineffective / defective. There was damp behind the new shower and again it was not clear whether repairs had been effective.

The Committee were conscious that areas that have become damp over a period of time may take a considerable period to dry out.

The Committee considered what further action to take. In light of the fact that the Committee could not yet ascertain whether or not the repairs had been effective and whether it was simply the case that the plaster was drying out, that the appropriate measure would be to grant an extension to the Landlord to allow a further period of drying out. A re-inspection could then take place at the end of this period to ascertain whether the repairs had been effective or not. The Committee considered that a period of two months would be appropriate.

#### **Decision**

3. The decision of the Committee was to grant the Landlord an additional period of two months from the date of this decision to comply with the RSEO.
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 19/1/16  
Chairperson