

Notice of a decision to Vary
A Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/DD3/159/12

Re: Property at 1 Beaully Square, Dundee, DD3 0DL ("the Property")

The Parties:-

STOBMUIR ENTERPRISES LIMITED, 15 Albert Street, Dundee, DD4 6NS ("the Landlord")

LAURA DEASLEY residing at 1 Beaully Square, Dundee, DD3 0DL ("the Tenant")

NOTICE TO STOBMUIR ENTERPRISES LIMITED ("the Landlord")

The Private Rented Housing Committee having determined on 13 June 2013 that the **Repairing Standard Enforcement Order** relative to the Property dated 19 December 2012 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 period of 28 days.
2. The steps which the Committee require the landlord to take in complying with the order are amended as follows :-
 - a. The Landlord requires to remove the existing chips and other material that the Landlord laid around the path and stairs at the Property. The Landlord is to replace the said chips and other material with an appropriate quality of chips without any metal, screws, nails or other items contained within it.
 - b. The period allowed for the completion of the work required by this order is extended for a further period of 28 days from the date of service of this notice.

Subsection 25(3) of the Housing (Scotland) Act 2006 does/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/...

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 13 June 2013 before this witness:-

L Johnston

_____ witness

E Miller

_____ 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/DD3/159/12

Re: Property at 1 Beaully Square, Dundee, DD3 0DL ("the Property")

The Parties:-

LAURA DEASLEY residing at 1 Beaully Square, Dundee, DD3 0DL ("the Tenant")

STOBMUIR ENTERPRISES LIMITED, 15 Albert Street, Dundee, DD4 6NS ("the Landlord")

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 28 days 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 19 December 2012 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 repair or replace the front door and the surrounding frame to ensure that the door is capable of being opened and closed smoothly, is properly wind and watertight and otherwise meets the repairing standard.
 - (b) To install air vents to the replacement windows recently installed by the Landlord to ensure compliance with the repairing standard.
 - (c) To carry out such works as are necessary to the steps and access pathway leading from the front gate to the front door to ensure it is in a safe and useable condition and otherwise meets the repairing standard.
 - (d) To produce a further gas safety certificate confirming that all items listed are marked as a "pass".

The RSEO gave the Landlord 6 weeks to carry out the works.

2. The Surveyor Member (Mr Godfrey) of the original Committee reinspected the Property on 15 February 2013 at 10am. The Tenant was present as was Dr El-Bakary of the Landlord. He was accompanied by his son.

The Surveyor Member noted that the front door and frame had been replaced. There was however a small area of damaged plasterwork adjacent to the frame inside the Property. The letterbox cover was also ill fitting.

Air vents had been fitted to the replacement windows as required by the RSEO.

The front steps had been repaired and the access path laid in concrete slabs. A new wooden handrail had been installed.

The Gas Safety Certificate had been amended by the engineer and was provided to the Surveyor Member.

The Committee had some concerns regarding the completeness of some of the works and also a concern in relation to the Gas Safety Certificate and the manner in which it had been amended by the Landlord's engineer. The Landlord was advised that it would be helpful to receive a new Gas Safety Certificate. The Landlord advised the Committee that he was having difficulty in obtaining access to get this.

In the circumstances, the Committee determined that in order to reach a final determination a further inspection by the full Committee would be required followed by a further Hearing.

3. A further inspection and Hearing was carried out by Mr E K Miller (Chairman and Legal Member), Mr D Godfrey (Surveyor Member) and Mr M Scott (Housing Member), accompanied by the Clerk Mr S Young on 5 June 2013. The Tenant and a companion were present. Dr El-Bakary, Mrs Gibson and the Landlord's son were all present. Subsequent to the inspection a Hearing was carried out at the Douglas Community Centre, Balmoral Avenue, Dundee.

The Committee noted at the Hearing that the Landlord had now obtained a new Gas Safety Certificate dated 24 April 2013. This Certificate confirmed that the gas appliances at the Property met the necessary standard. The Certificate noted that the carbon monoxide detector required a new battery. At the Hearing the Landlord provided a new carbon monoxide detector to the Tenant. The Tenant confirmed at the Hearing that she was satisfied that the Gas Safety Certificate now showed that everything was in order.

The Committee then considered the front door. Since the last reinspection the letterbox had been fixed and wooden facings had been put in place around the interior of the door. Again the Tenant confirmed that this was now satisfactory. The Tenant did, however, complain that the door was not closing properly and that there was still a gap at the top lefthand corner, when facing the door from the inside. The Committee inspected the door. The Committee was of the view that any gap was immaterial and that the door met the repairing standard in this regard.

The Committee then inspected the windows at the Property. As had been noted at the original reinspection, air vents had been installed throughout and this met the requirements of the RSEO. The Tenant, however, complained that there had been large gaps left between the walls and the window frames caused by the poor installation of the windows. The Committee noted that this complaint was not a part of the original RSEO and therefore did not feel in a position to require the Landlord to anything in this regard. In any event the Committee noted that various works of repair had been carried out by the Landlord since the installation of the windows. Whilst these works of repair were quite basic the Committee was satisfied that they met the repairing standard.

Finally the Committee inspected the access pathway and steps. Whilst the Tenant was happy with the steps and the path they had two other concerns. Firstly the wooden handrail that had been installed was made from quite rough wood and the Tenant's children had been given splinters by this. Secondly the chips laid down by the Landlord around the slabs were very rough and contained various bits of metal, nails, springs, etc. In relation to the handrail the Committee was of the view that this had not been required to be installed as there was not significant drop on either side of the steps. Accordingly, the Landlord could if he so desired, remove the handrail to achieve compliance with the repairing standard rather than carry out works to it. In relation to the chips around the path the Committee was satisfied that these were a safety hazard. The original RSEO

required the Landlord to make the path safe. The addition of the chips had not made the path safe. The chips were exceptionally rough and were littered, as the Tenant had said, with chunks of metal, screws, springs, etc. Some of these were very sharp and were a clear hazard. Accordingly the Committee would require the Landlord to remove the chips and any other material present and to replace these with proper, safe chips of a suitable standard. The Landlord would require to check any workmanship carried out on their behalf by contractors to ensure that the work had been done satisfactorily.

The Committee noted that there continued to be a dispute between the Landlord and Tenant about whether access had been granted in the past or not. The Committee again reiterated that the Landlord was to give the Tenant reasonable notice and arrange for contractors to attend at a reasonable time. In return the Tenant was to ensure that access was available. In any event the only remaining works could be carried out on the exterior only of the Property and hopefully access would not be required to the interior of the Property.

The Committee also noted that the Tenant now had other complaints regarding the condition of the Property. The Committee highlighted that they could not deal with any new matters and that this would require a new application. The Tenant was aware of this. The Committee encouraged the parties to speak to each other to establish what, if anything, required to be dealt with and for the Landlord to agree and carry out any appropriate works. The Committee did not wish to see a further application from the parties where it was not necessary for them to do so.

The Committee considered that it was appropriate to grant an extension to the Landlord to allow the works to be carried out.

The Committee was satisfied that the majority of the works had been carried out and that the matter was approaching an end. Accordingly the Committee was satisfied that it would be in order to give an extension of 28 days only.

Decision

4. The decision of the Committee was to grant the Landlord a period of 28 days from the date of this decision to comply with the RSEO.
5. The decision of the Committee was unanimous.

Right of Appeal

6. 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

7. 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 **E Miller** Date..... *14/6/2013*
Chairperson