



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

prhp Ref: PRHP/RP/16/0083

Re : Property at 7A Tanfield Walk, Aberdeen, AB24 4AN ("the Property")

Sasine Description: ALL and WHOLE the Eastmost flat on first floor of Tenement 5, 7 and 7A Tanfield Walk described in Disposition to William Williamson Clark recorded GRS (Aberdeen) 31 January 1951

The Parties:-

Mr GEORGE WATT, 7A Tanfield Walk, Aberdeen, AB24 4AN ("the Tenant")

MR STANLEY YOUNGSON 17 Prospect Terrace, Aberdeen, AB11 7TD ("the Landlord")

NOTICE TO MR STANLEY YOUNGSON ("the Landlord")

The Private Rented Housing Committee having determined on 16 May 2016 that the **Repairing Standard Enforcement Order** relative to the Property served on 19 May 2016 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:-

The period allowed for the completion of the work required by the order is extended for a period 21 days 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/

appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page are executed by Gillian Coutts Buchanan, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 2 September 2016 before this witness:-

Jenni Lynch _____ witness

Gillian Buchanan _____ Chairperson

Jenni Lynch
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/16/0083

Re: Property at 7A Tanfield Walk, AB24 4AN ("the Property")

The Parties:-

Mr GEORGE WATT, 7A Tanfield Walk, Aberdeen, AB24 4AN (represented by his agent, Mr Hamish Mackenzie, Shelter Scotland, Aberdeen Hub, 36 Upperkirkgate, Aberdeen, AB10 1BA)("the Tenant")

MR STANLEY YOUNGSON 17 Prospect Terrace, Aberdeen, AB11 7TB ("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 21 days to the period allowed for completion of the works required all in terms of Section 25(1) of the Housing (Scotland) Act 2006 ("the Act").

Background

1. Reference is made to the determination of the Committee dated 16 May 2016 which determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act in that he had failed to ensure that the Property met the repairing standard. The works required by the RSEO were: -
 - a. To repair the hot water system to ensure that it is in a reasonable state of repair and in proper working order to include the replacement of the hot water tank, the electric immersion heater, the cold water tank and associated plumbing as necessary.
 - b. To repair or replace the cistern and the pipework adjacent to the toilet to ensure that it is in a reasonable state or repair and in proper working order.
 - c. To install sufficient smoke alarms and heat detectors that are mains wired and interlinked and otherwise comply with the requirements of the relevant fire legislation and to produce a clear Electrical Installation Condition Report from a suitably qualified electrician confirming that the smoke alarms and heat detectors within the property are in proper working order and comply with the relevant regulations with no items marked as Category 1 or Category 2. The Landlord is to exhibit such clear Electrical Installation Condition Report to the Committee.

The RSEO gave the Landlord 28 days to carry out the works.

2. On 4 July 2016 the Surveyor Member of the Committee, Mr David Godfrey, re-inspected the Property on behalf of the Committee. The Tenant was present and represented by his agent, Mr Hamish McKenzie of Shelter Scotland. The Tenant gave access to the Property. The Landlord was neither present nor represented.

It was readily apparent to the Surveyor Member that no works had been carried out since the original inspection and issuing of the RSEO.

The Committee received representations from the Landlord on 1 July 2016. The Landlord stated that at the original inspection and subsequently at the hearing it was stated that someone would liaise with him with regard to access to the Property. No one had done so.

The Committee received representations from the Tenant's representative, Mr Hamish McKenzie, dated 13 July 2016. Mr McKenzie stated that the situation has been the same for the last 9 years.

3. On 31 August 2016 the Committee (comprising Ms G C Buchanan, Chairperson and Legal Member and Mr D Godfrey, Surveyor Member) held a hearing at Credo Centre, 14-20 John Street, Aberdeen and heard from the Landlord and the Tenant's representative, Mr Hamish McKenzie. The Tenant did not attend.

4. The Landlord submitted as follows:-

- (a) That at the hearing on 12 May 2016, the Committee advised him that someone would be in touch with him regarding access to the Property and no one had done so;
- (b) That he was willing to undertake the works required in terms of the Repairing Standard Enforcement Order; and
- (c) That he would undertake the works personally and that they would take a day to complete provided access was given by the Tenant by 9.00am on the day in question.

5. On behalf of the Tenant it was submitted:-

- (a) That there had been no contact from the Landlord since the hearing on 12 May 2016; and
- (b) That the works required in terms of the Repairing Standard Enforcement Order are still necessary.

6. The Committee considered how to proceed in light of the parties' representations and submissions. The Committee noted that as a matter of courtesy Mr McKenzie would contact the Tenant to identify one or more dates convenient for access to the Property to be given to the Landlord. Mr McKenzie would contact the Landlord by telephone and by letter to advise of those dates. The Committee stressed to the Landlord that the onus was on him to undertake the works and to pursue access to the Property for that purpose. The Committee was satisfied that the Landlord was given no indication at the original inspection or at the subsequent hearing on 12 May 2016 that someone would be in touch with him about access to the Property. At that hearing the Landlord complained that he could not get access to the Property in the mornings as the Tenant did not get up until later in the day. The Committee indicated to the Landlord that the Tenant's representative might assist in facilitating access for the required works to be done. The Tenant's

representative was also advised at the hearing that the Tenant required to give access and co-operate in the works being carried out. The onus remained clearly with the Landlord to organise the required repairs and make arrangements for access with the Tenant or the Tenant's representative.

With considerable reluctance, the Committee considered that, in light of the apparent confusion, it was appropriate to give an extension to allow the Landlord to undertake the works required by the Repairing Standard Enforcement Order. The Committee was of the view that a period of 21 additional days would be sufficient. The Committee expects the required works to be completed within that period.

Attached to this Decision is a photographic record of the Property as at the date of the re-inspection for information purposes.

(i) Decision

The Decision of the Committee was to grant the Landlord a period of 21 days from the date of service of this decision to comply with the RSEO.

The decision of the Committee was unanimous.

(ii) 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.

(iii) 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.

Gillian Buchanan

Signed ..
Chairperson

Date..... 2 September 2016