



NOTICE OF A DECISION TO VARY
A REPAIRING STANDARD ENFORCEMENT ORDER
ORDERED BY THE PRIVATE RENTED HOUSING COMMITTEE

PRHP Ref: prhp/PA8/200/11

PROPERTY:

4, Park Top, Erskine PA8 7HP, registered in the Land Register for Scotland under title number REN62133

PARTIES:

Ms Colleen Duncan, residing at the property (‘‘the Tenant’’)

and

Martin Francis Hesketh, t/a Iona Developments Limited, 21 Briar Gardens, Glasgow G43 2TF (‘‘the Landlord’’)

NOTICE TO Martin Francis Hesketh, t/a Iona Developments Ltd, 21 Briar Gardens, Glasgow G43 2TF

The Private Rented Housing Committee having determined that the **Repairing Standard Enforcement Order** dated 20 May 2012 relative to the Property 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 3 weeks from the date of service of this Notice.
2. The Landlord will further investigate the cause of water ingress in and around the window in the upstairs front bedroom and carry out necessary repairs and make good any damage caused by the ingress of water and the repairs.
3. The Landlord will commission a further examination of the central heating system, and will carry out the necessary repairs to resolve the problem of the system intermittently cutting out.
4. The Landlord will commission an inspection and report by a suitably qualified electrician of the whole electrical system in the property and all components thereof and will carry out all necessary repairs and renewals and thereafter lodge with PRHP a certificate from a qualified electrician confirming that the electrical system is safe in all respects

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 are subscribed as follows:

D Preston Chairman

S Preston .Witness

18-3-13 Date of Signing

...Sheila Preston.....Name

OBAN Place of Signing

...Westbank.....Address

...Duncraggan Road..

...Oban.....

...Argyll.....



**PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE
UNDER SECTION 26(1) OF THE PRIVATE RENTED HOUSING (APPLICATIONS
AND DETERMINATIONS) (SCOTLAND) REGULATIONS 2007**

PRHP Ref: prhp/PA8/200/11

PROPERTY:

**4, Park Top, Erskine PA8 7HP, registered in the Land Register for Scotland
under title number REN62133**

PARTIES:

Ms Colleen Duncan, residing at the property ("the Tenant")

and

**Martin Hesketh, t/a Iona Developments Limited, 21 Briar gardens, Glasgow G43
2TF** ("the Landlord")

DECISION

The Committee, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the terms of the Repairing Standard Enforcement Order (hereinafter referred to as "RSEO") dated 20 May 2012 in terms of section 26 (1) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act") and taking account of the written and oral representations by the Landlord and the Tenant, determined that it would be appropriate to extend and vary the terms of the RSEO and also to allow a period of a further 3 weeks from the date of service of the Notice of Variation for completion of the works.

BACKGROUND

1. Reference is made to the Determination of the Committee dated 20 May 2012 which decided that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") and to the RSEO made by the Committee which required the Landlord to carry out works as specified therein. The said works were to be carried out and completed within 6 weeks from the date of service of the Notice of the RSEO, which was effected on 23 May 2012.
2. A re-inspection of the property took place on 27 August 2012 and a report dated 28 August 2012 was copied to both parties. The report confirmed that:

2.1. Works undertaken:

- 2.1.1. The Tenant confirmed that two parts had been replaced in the boiler and the central heating was functioning at that time. It was reported to the surveyor member that the Landlord had a gas safety certificate which was to be sent to the PRHP offices.
- 2.1.2. The ground floor toilet had a new flushing mechanism and the Tenant was satisfied that it was in working order. Pipes had been renewed and there was no leak.
- 2.1.3. The Tenant advised that the electricians were working although she pointed out that there was only a trip switch for the ground floor and not the upper floor. The Landlord confirmed an electrician had carried out an inspection report and was requested to send this to the PRHP offices. The surveyor member indicated that specific comments were required in relation to the cable underneath the bath, light fittings to the ground floor and the suitability of the wiring for the shower. The Landlord advised that the report would address all of these issues and that the electrician was aware of the terms of the RSEO.

2.2. Works outstanding as at the date of re-inspection:

- 2.2.1. No works had been done in relation to the upstairs front bedroom window although the staining had not worsened since the inspection.
- 2.2.2. The shower rail fixture had been moved to the side wall away from the end of the bath to prevent water running down the corner onto the floor but the seals had not been replaced.
- 2.2.3. The remedial works to the ceiling on the ground floor had not been carried out and the ceiling remained damaged.
- 2.2.4. No reports as required had been lodged.

3. Events since the re-inspection:

- 3.1. On 30th August 2012 copies of the re-inspection report were sent to the parties for their comments and representations. By letter dated 30th August the Landlord advised that trickle vents had been fitted to the Windows to alleviate condensation and that contractors had inspected the roof and front elevation for potential leaks. He advised that they had also commenced the ceiling repairs in the hall. He also advised that he had decided to replace the bath to eliminate any further leaks.
- 3.2. By letter dated 7 September 2012 the Landlord produced a Gas Safety Certificate together with invoices for the work which had been undertaken and an additional electrical safety certificate and reports from his contractors.
- 3.3. On 10 October 2012 the Tenant advised that a new bath had been fitted.
- 3.4. The Committee raised concerns about the terms of the electrical safety certificate which were referred to the Landlord by letter dated 29 October 2012.

- 3.5. In the absence of any response from the Landlord a reminder letter was issued to him on 22 November 2012.
 - 3.6. On 28 November 2012 the Tenant advised that further water ingress had occurred in the upstairs front bedroom. Although this appeared to be a copy of a letter which had been sent to the Landlord, the Committee decided to forward a copy of it to him on 23 January 2013.
 - 3.7. On 22 January 2013 the Landlord advised that he had commissioned a further electrical report from a different electrician and an inspection had taken place on 19 January.
 - 3.8. In view of the ongoing difficulties and delays in having the work specified in the RSEO completed, the Committee determined to arrange a further inspection and hearing which took place on 8 March 2013 at the property.
 - 3.9. During the inspection the Tenant advised that she was unable to attend the hearing and although the Landlord was able to attend the hearing the Committee decided to hear the parties' representations at the property.
4. Inspection and Hearing 8 March 2013:
- 4.1. The Tenant was present throughout the inspection and the Landlord arrived five minutes after it had commenced.
 - 4.2. Front Bedroom Window
 - 4.2.1. The Committee inspected the window in the front bedroom and found it to be in the same condition as it had been at the original inspection on 20 May 2012. The Surveyor Member indicated that it had been in that condition at the time of the re-inspection. The Landlord advised that further investigative work had been carried out and referred to reports from Rowallan Timber and Damp Specialists Ltd dated 18 February 2013 and PWM Contracts Ltd dated 5 March 2013. The Committee noted that on 27 August 2012 at the re-inspection the Landlord had undertaken to instruct "Glasgow Preservation" to investigate the window and that he would get a roofer to inspect the roof. No reports had been produced to the Committee until 6 March 2013.
 - 4.2.2. Neither of the reports now produced indicated any ingress of water but the Landlord acknowledged that no examination of the window itself had been carried out. In the presence of the Committee and the Tenant, the Landlord telephoned a contractor and left a message to request an inspection of the window.
 - 4.3. Shower Fitting and Electrics:
 - 4.3.1. The Committee noted that the pull cord for the shower switch was missing but acknowledged that this specific issue had not been intimated to the Landlord. However the terms of the electrical installation condition report by John Griffin Electrical Services dated 19 January 2013 gave rise to serious concerns with regard to the safety of the shower fitting and other electrical installations in the property. Notwithstanding that the report recommended that there were matters which required to be acted upon as a matter of urgency and that a further inspection should have

been carried out by 3 February 2013 no further inspection or work had been carried out and the report had only been produced to the Committee on 6 March 2013.

4.3.2. In view of the urgency for this further work to be carried out, in the presence of the Committee and the Tenant, the Landlord telephoned John Griffin the electrician who clarified that although he had only specifically examined the shower installation, while doing so he had become aware of other serious issues in relation to the electrical installation in the property and recommended that a full inspection of the electrical installation should be carried out as a matter of urgency. In the presence of the Committee and the Tenant, arrangements were made for John Griffin to attend the property on 21 March. The Tenant undertook to ensure that all cupboards in the kitchen were cleared and that access would be provided to all necessary areas to enable the electrician to complete an inspection and effect repairs.

4.4. Central Heating System:

4.4.1. Although repairs had been carried out to the central heating system, prior to the re-inspection by the Surveyor Member on 27 August 2012, the Tenant reported that it was still not functioning properly and was cutting out intermittently. In the presence of the Committee the Landlord telephoned Gas Tech who had carried out the repairs and instructed a further inspection and repair of the system.

5. Decision and Findings:

5.1. The Committee carefully considered: all the representations made by the parties at the further inspection, the re-inspection report and all subsequent electrical, damp, and roofing reports produced by the Landlord.

5.2. The Committee noted that the Landlord had not made any application for a Variation of the RSEO by seeking an extension to the time. The RSEO provided that the Works specified in the Order were to be carried out and completed within two months from the date of service of the Order which should have been by 24 July 2012.

5.3. It was apparent to the Committee that there had been communication difficulties between the parties but that in view of the events at the inspection and hearing on 8 March 2013, with arrangements being made for the necessary tradesman to attend and Tenant's agreement to those arrangements the Committee considered that the RSEO should be extended to enable the outstanding works to be completed.

5.4. The Committee noted that since the re-inspection on 27 August 2012, the bath had been replaced. No further representations were made by the Tenant in respect of the issue of water leaking between the bath and the wall and accordingly the Committee was satisfied that this issue had been resolved.

5.5. The Committee was satisfied that the gas safety certificate which had been produced was satisfactory.

- 5.6. The Committee considered that it was open to it to issue a Notice of Failure and to consider whether Rent Relief Order would be appropriate. However in view of the arrangements which had been made during the course of the inspection the Committee considered that there would be no benefit from making such a determination and considered that on a pragmatic basis an opportunity should be given to the Landlord to have the work completed within a short space of time and accordingly determined to vary the RSEO.
- 5.7. The Committee considered that it was unfortunate that the Landlord had failed to produce relevant reports timeously and had not followed through on all the undertakings given by him at various stages throughout the process of this application.
- 5.8. The Committee reserved its position in regard to carrying out a further inspection of the property on the expiry of the extended period.

RIGHT OF APPEAL

6. A Landlord or Tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

EFFECT OF APPEAL

7. In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed D Preston
Chairperson

Date 18-3-13