

Notice of a decision to Vary

A Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP Ref: PRHP/DD1/21/12

Re: 17D Forest Park Road, Dundee, DD1 5NZ ("the Property")

Sasine Description: ALL and WHOLE the northmost first floor flat at 17 Forest Park Road, Dundee being the subjects more particularly described in and disposed by Disposition by S McLennan Limited in favour of Melville Strachan Matthew and Margaret Cumming Matthew recorded in the division of the General Register of Sasines for the County of Angus on 3 December 1998

The Parties:-

MR AND MRS MEL MATTHEW, Spouses, residing together at Quarry Cottage, Main Street, Inchtute, Perthshire ("the Landlords")

MR LEON MACLEOD-MACLEAN residing at 17D Forest Park Road, Dundee, DD1 5NZ ("the Tenant")

NOTICE TO MR AND MRS MEL MATTHEW ("the Landlord")

The Private Rented Housing Committee having determined on 29 April 2013 that the **Repairing Standard Enforcement Order** relative to the Property served on 17 May 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 further period of 6 weeks 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 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 29 April 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/DD1/21/12

Re: 17D Forest Park Road, Dundee, DD1 5NZ ("the Property")

The Parties:-

MR LEON MACLEOD MACLEAN residing formerly at 17D Forest Park Road, Dundee, DD1 5NZ ("the Tenant")

MR AND MRS MEL MATTHEW, Spouses, residing together at Quarry Cottage, Main Street, Inchtute, Perthshire ("the Landlords")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property, determined that the Landlord should be given a further extension of 6 weeks 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 17 May 2012 which determined that the Landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Act and 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 windows at the Property sufficient to ensure that they are properly wind and watertight, capable of opening and closing properly and otherwise meet the repairing standard.
 - (b) To properly reinstate the box work around the rear of the toilet area.
 - (c) To properly affix the cooker hood and the cooker.
 - (d) To provide a clear Electrical Installation Condition Report from a suitably qualified electrician confirming that the electrical installation within the Property meets the appropriate standard.

The Private Rented Housing Committee had ordered that the works specified in the RSEO must be carried out and completed within a period of 3 months from the date of service of the RSEO.

2. Subsequent to the serving of the RSEO the Landlords indicated that they were having difficulty obtaining access to the Property and it was apparent that the Tenant was intending to leave. In due course confirmation was obtained from the Tenant that he had removed. Further time was given to the Landlord in light of this. The Landlords had subsequently indicated that they had not finished the works. After a significant period of time had passed and the Landlords indicated that they were still carrying out works for the

improvement of the Property, the Committee deemed it prudent that they should reinspect to ascertain the exact position and intention of the Landlords.

Accordingly on 5 April 2013 the Surveyor Member, Mr D Godfrey of the original Committee, carried out a reinspection of the Property. The Landlords were present and granted access to the Property. The Tenant was neither present nor represented.

The Surveyor Member noted that the windows throughout the Property had been replaced with double glazed fittings. The Surveyor noted that the bathroom suite had been replaced and the bathroom was in the course of being completed.

The Surveyor Member noted that the cooker oven door was still damaged, the oven was loose and the extractor hood was also loose.

The Surveyor Member noted that a clear Electrical Installation Condition Report had yet to be obtained and provided to the Committee. The Landlords undertook to do this in due course.

The Surveyor Member noted that although upgrading of the bathroom was ongoing the box work around the rear of the toilet had yet to be reinstated in line with the RSEO.

3. The Committee considered whether to grant a further extension for the works in the RSEO to be carried out. The Committee was disappointed that it had taken the Landlords so long to carry out what works he had. However the Committee was conscious that there was no tenant within the Property and there would be no prejudice by an extension being given. The Committee were conscious that the Landlords would not be able to re-let the Property until the RSEO had been lifted as to do so would be a criminal offence. Accordingly, the RSEO remaining in place simply served to prevent the Landlords letting it out and gaining an income from the Property. On that basis the Committee were prepared to grant one final extension to the RSEO of 6 weeks. However the Committee did expect the Landlords to have completed the works within this timescale and to find that everything was in order at the date of the next reinspection.

Decision

4. The decision of the Committee was to grant the Landlords a period of 6 weeks from the date of this Decision to comply with the RSEO.
5. The decision of the Committee was unanimous.

Right of Appeal

6. A Landlords 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 29/4/13
Chairperson