



Notice of a decision to Vary

A Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Title Number LAN61156

PRHP/ML3/43/11

Re: The residential dwellinghouse at

**124 Fleming Way
Hillhouse
Hamilton
ML3 9QH
("the Property")**

The Parties:-

**Miss Emma Donaldson previously resident at the Property
("the Tenant")**

and

**Mr Jim Doherty
C/O Excel Property
37 Bairds Crescent
Allanshaw Industrial Estate
Hamilton
ML3 9BG
("the Landlord")**

The Committee comprised:

**Mr Ron Handley – Chairperson
Ms Carol Jones – Surveyor**

NOTICE TO THE LANDLORD

The Private Rented Housing Committee ("the Committee") having determined on 16 January 2012 that the Repairing Standard Enforcement Order ("the RSEO") dated 14 October 2011 relative to the Property should be varied, hereby vary the RSEO with effect from the date of service of this Notice in the following respects:-

- (a) the period allowed for the completion of the works required by the RSEO is extended to 29 February 2012.

Subsection 25(3) of the Housing (Scotland) Act 2006 does apply in this case.

A Landlord or a 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.

Where such an Appeal is made, the effect of this 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 this and the preceding page is subscribed by Ronald G Handley, solicitor, chairperson of the Private Rented Housing Committee at Dunbar on the thirteenth day of February 2012 before this witness:

Jane Handley

witness

R Handley

chairperson

JANE HANDLEY

name in full

23 LESLIE WAY

address of witness

DUNBAR

EAST LOTHIAN

COLLAGE MANAGER

occupation



Decision by the Private Rented Housing Committee

**Statement of Reasons of the Private Rented
Housing Committee under Section 24 (1) of the
Housing (Scotland) Act 2006**

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Ms Carol Jones – Surveyor**

The Background

1. On 21 February 2011 the Tenant applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. Following receipt of the application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee in accordance with Section 22(1) of the Act.

The Application

3. In her application the Tenant submitted that the Landlord had failed to comply with his duty to ensure that the Property met the Repairing Standard (as defined in the Act). It was suggested that the Landlord had failed to ensure that the Property was wind and water tight and in all respects reasonably fit for human habitation; the structure and exterior of the Property (including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order; the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water were in a reasonable state of repair and in proper working order; the Property had satisfactory provision for detecting fires and giving warning in the event of fire or suspected fire.
4. In particular the Tenant submitted in her Application Form that the front porch woodwork was rotten, the front door was hard to open and close, there was dampness in the bathroom ceiling and the wall in the back porch was "coming away". It was also submitted that the back porch heater was not working, the downstairs WC heater was not working, there were no smoke or CO2 alarms, the back porch roof was not secure and the front windowsill was missing.

Findings

5. The Committee found the following facts to be established:
 - The Property is a two storey, semi detached house. At the front of the Property there is a small entrance porch ("the front porch") and there is a larger back porch at the rear of the Property.
 - The heaters in the back porch and in the downstairs WC are in proper working order.
 - Two functioning, mains powered and interlinked smoke alarms have been installed in the Property.
 - There is no evidence of dampness in the upstairs bathroom following the installation of a ventilation fan by the landlord.
 - Some works have been executed to the front porch. These works include the removal of rotten wood. However there are gaps in the area around the front door and the roof of the front porch is in need of repair. The front porch is not wind and watertight.
 - Some works have been executed to the back porch. However the roof is in a poor state of repair and is not adequately sealed, there is evidence of dampness in the rear external wall and parts of the ceiling are damp and not secure. The back porch is not wind and watertight.
 - The external windowsill at the front facing living room window has been replaced but the replacement is ill fitting and is not wind and watertight.

- The Tenant has not been provided with an Allen key to allow her to open, close and lock the windows (which have locks fitted).
 - The Property is not wind and watertight and does not meet the standard set out in section 13(1)(a) of the Act.
 - The window locks cannot be used properly and do not meet the standard set out in section 13(1)(d) of the Act.
6. The Committee determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.
 7. The Committee proceeded to make a Repairing Standard Enforcement Order ("the RSEO") as required by section 24(1) of the Act.
 8. The decision of the Committee was unanimous.

The Variation

9. On 16 January 2012 the Committee received intimation that the works required in the RSEO would not be completed by 20 January 2012. It was requested that the period of time for completing the works be extended. In these circumstances and in accordance with section 25 of the Act the Committee agreed to vary the RSEO by extending the period of time for the completion of the works to 29 February 2012.
10. The decision of the Committee was unanimous.

Right of Appeal

11. A Landlord(s) or Tenant aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63

12. 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. 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 ... R Handley Date ... 13 FEBRUARY 2012
 Chairperson