

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

prhp Ref: EKM/KW8/83/12

Re : Property at 2 Crakaig Cottage, Loth, Helmsdale, KW8 6HP ("the Property")

The Parties:-

Mr & Mrs Ruddy residing at 2 Crakaig Cottage, Loth, Helmsdale, KW8 6HP (represented by their agent Ms Alison MacRury, Ross & Cromarty Citizens Advice Bureau) ("the Tenants")

Mr Michael Dudgeon, residing at Crakaig Farm, Loth, Helmsdale, Sutherland, KW8 6HP ("the Landlord")

NOTICE TO MICHAEL DUDGEON ("the Landlord")

The Private Rented Housing Committee having determined on 20 December 2012 that the **Repairing Standard Enforcement Order** relative to the Property dated 29 June 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 (or further extended) for a further 4 months from the date hereof.

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 16 January 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: EKM/KW8/83/12

Re : Property at 2 Crakaig Cottage, Loth, Helmsdale, KW8 6HP ("the Property")

The Parties:-

Mr & Mrs Ruddy residing at 2 Crakaig Cottage, Loth, Helmsdale, KW8 6HP (represented by their agent Ms Alison MacRury, Ross & Cromarty Citizens Advice Bureau) ("the Tenants")

Mr Michael Dudgeon, residing at Crakaig Farm, Loth, Helmsdale, Sutherland, KW8 6HP ("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, and taking account of the representations made by the Landlord and the Tenants, determined that the Landlord should be given an extension for a period of 4 months from the date of this Decision to allow for completion of the required work under the RSEO 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 29 June 2012 which determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act and to the subsequent RSEO, also of 29 June 2012, made by the Committee. The RSEO required the Landlord to carry out the works as specified therein. The said works were to be carried out and completed within 4 months of the service of the RSEO.
2. Mr E K Miller, Chairman and Legal Member and Mr R Buchan, Surveyor Member, being the original Committee, reinspected the Property on 20 December 2012 and subsequently held a hearing. The Landlord and his wife were present as were the Tenants and their agent, Ms Alison MacCrury.
3. The RSEO required the Landlord:-
 - (a) to carry out such works of repair or replacement as are necessary to ensure the front door is wind and water tight and complies with the repairing standard.
 - (b) to carry out such works of repair or replacement as are required to ensure that the windows at the Property are properly wind and water tight, capable of opening and closing properly, lockable and otherwise are in such condition as is required to meet the repairing standard.
 - (c) to install a suitable extraction fan within the bathroom of the Property, suitably ducted, to reduce the incidence of condensation within the Property.

(d) to re-point those areas of the rear external wall where there are open joints in the masonry.

(e) to repair/replace the plasterboard around the rear bedroom window of the Property and to make good any damage occasioned thereby.

4. The Committee carried out a reinspection of the Property. It was apparent from this reinspection that not all the works required by the RSEO had been carried out.

In relation to the front door some works had been carried out on this. However, the Committee noted that the door was still not closing fully on the handle side of the door at the bottom. Further works would be required to bring this up to the repairing standard.

In relation to the windows, the kitchen window had been replaced with a modern UPVC window, which had been done to an acceptable standard from the Committee's perspective. No other works had been carried out to the windows. Accordingly the terms of the RSEO still applied to the remainder of the windows within the Property.

The Committee inspected the extraction fan within the bathroom of the Property. This had been installed and was appropriate. However, the RSEO had required the fan to be suitably ducted. The Committee were not of the view that it had been suitably ducted. Moist air was now being vented from the bathroom immediately below the rear bedroom, which had previously suffered from condensation and damp. The rear of the cottage was secluded and the moist air from the vent would simply rise up and re-enter the Property at the bedroom. The fan vent needed to be ducted above the rear bedroom in order that the same damp and condensation issues did not reappear again in the rear bedroom.

The Committee noted that there had been no repointing works to the rear external wall. The Landlord had queried during the course of the inspection what areas the Committee were looking for work to be carried out. The Committee pointed the areas out to the Landlord.

The plasterboard around the rear bedroom window of the Property had been replaced, as required by the RSEO. Redecoration works still required to take place to finish this item off however.

After the inspection a hearing was held at the Belgrave Arms Hotel in Helmsdale. All parties were present.

After some discussion it was explained by the Landlord that they had been unable to carry out some of the works due to financial constraints. Although the Property was in the name of the Landlord the rental payments were still going to his mother. The Landlord had, however, recently received his single farm payment and, consequently, was now in a position to carry out the works required as identified by the Committee at the reinspection. The Landlord had enquired as to the consequences if he accepted that he was not to be paid any more rent by the Tenant and simply didn't carry out any works in light of his financial position. The Committee highlighted that to fail to comply with an RSEO without reasonable excuse was a criminal offence and the Committee would be obliged to report the matter both to the local authority and to the police for consideration for prosecution. This may, in turn, also jeopardise the Landlord's registration with the local authority and the ability to own rented property.

A discussion ensued in relation to the options open to the sub-committee i.e. impose a Rent Relief Order or grant a variation giving the Landlord further time to carry out the works.

The Tenant and her agent considered matters. Their preference was for the works to be carried out and the Property to be improved. They do not see any benefit in a Rent Relief Order being granted at this stage (the Tenant being in receipt of housing benefit). Their

preference was for the Landlord to be granted a variation to carry out the works and the matter resolved in that way.

After further discussion it was agreed that the Landlord would be given a further extension to carry out the works. The Landlord's wife undertook that she would also become involved in the process and ensure that the windows were dealt with along with the other items identified by the Committee at the reinspection. A discussion was had regarding the windows and whether these required to be repaired or replaced. The Committee advised that it was for the Landlord to decide whether to repair or replace them. The Committee were, however, of the view that the windows had reached the end of their economic life. Whilst it would be possible to repair them it would simply be a temporary job and issues would soon arise with them. The Committee were of the view that it would be better (and in the longer term more cost effective) to replace the windows but, as previously highlighted, this was ultimately a decision for the Landlord.

A discussion was had regarding the length of time required. At least 3 months was the view of the parties. After discussion, following the conclusion of the Hearing, the Committee were of the view that 4 months would be appropriate.

Decision

5. The Decision of the Committee was that the RSEO would be varied to give the Landlord a further period of 4 months to complete the works required by the original RSEO.
6. The decision of the Committee was unanimous.

Right of Appeal

7. **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.**
17. **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.

E Miller

Signed Date.....
Chairperson

16/1/13