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Notice of Variation No.5
of

a Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/AB11/37/13

Re : Flat 3, 70 Langstane Place, Aberdeen AB11 6EN ("the Property")

Title No: ABN73769

The Parties:-

Allan Hardy, Flat 3, 70 Langstane Place, Aberdeen AB11 6EN ("the Former Tenant")

Rachel Suzannah Gretton, Flat 3, 70 Langstane Place, Aberdeen AB11 6EN ("the Landlord") (care of her agents James and George Collie, Solicitors, 30 Bon Accord Street, Aberdeen AB11 6EL)

NOTICE TO

Rachel Suzannah Gretton ("the Landlord")

The Private Rented Housing Committee having determined on 30 January 2015 that the **Repairing Standard Enforcement Order** relative to the Property dated 15 July 2013 as varied by the **Notice of Variation** issued in March 2014; by the **Notice of Variation** dated 30 January and served on or about 9 February both 2015; by the **Notice of Variation** dated 16 September and served on or about 23 September both 2015; and by **Notice of Variation** dated 27 April and served on or about 29 April both 2016 should be further varied, the said **Repairing Standard Enforcement Order** is hereby varied in the following respects :-

1. the recommendations mentioned in part (b) of the Order being those numbered 1 to 6 and 8 on page 3 of the letter from Squire Associates to Hayley Mitchell of James & George Collie dated 29 August 2014 together with the works in part (c) of the Order must be carried out and completed by 31 October 2016.



**Decision (No.5) of Private Rented Housing Committee
under Section 25 (1) of the Housing (Scotland) Act 2006**

Statement of Reasons for Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 25(1) of the Housing (Scotland) Act 2006

Case Reference Number: PRHP/AB11/37/13

Re : Flat 3, 70 Langstane Place, Aberdeen AB11 6EN ("the Property")

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The Parties:-

Allan Hardy, Flat 3, 70 Langstane Place, Aberdeen AB11 6EN ("the Former Tenant")

Rachel Suzannah Gretton, Flat 3, 70 Langstane Place, Aberdeen AB11 6EN ("the Landlord") care of her agents James and George Collie, Solicitors, 30 Bon Accord Street, Aberdeen AB11 6EL

The Committee comprised:-

Mr David Bartos	- Chairperson
Mr Colin Hepburn	- Surveyor member
Mr Michael Scott	- Housing member

Decision

The Committee varied the Repairing Standard Enforcement Order dated 15 July 2013 in respect of the Landlord and the Property as varied in March 2014, January 2015, September 2015 and April 2016 by providing that the recommendations mentioned in part (b) of the Order being those numbered 1 to 6 and 8 on page 3 of the letter from Squire Associates to Hayley Mitchell of James & George Collie dated 29 August 2014 together with the works in part (c) of the Order must be carried out and completed by the end of October 2016.

Background:-

1. The Committee issued a Repairing Standard Enforcement Order ("RSEO") in respect of the Property dated 15 July 2013. In terms of the RSEO the work in the RSEO required to be completed by the end of 3 months from the date of service of the RSEO. The tenancy having terminated after the making of the RSEO, the Committee was entitled to enforce the RSEO despite the termination of the tenant's interest.

2. In March 2014 the Committee served a Notice of Variation of the RSEO. It required the recommendations for work to be obtained by 6 months from the date of its service. The recommendations were obtained in a report forming a letter from Squire Associates, building surveyors to James & George Collie dated 29 August 2014. That report with its recommendations is referred to for its terms which are deemed to be incorporated herein. The Landlord thus complied with part (a) of the RSEO, as varied.
5. After investigating the length of time that the work might reasonably take, in February 2015 the Committee served a further Notice of Variation of the RSEO dated 30 January 2015. In terms of that Notice the Landlord was given 6 months to carry out the work.
6. For the reasons set out in the Statements of Reasons for Variations numbered 3 and 4 the Committee served further Notices of Variation dated 16 September 2015 and 27 April 2016.
7. The most recent Notice of Variation, numbered 4, was served on the Landlord on or about 29 April 2016 and required the works to be carried out within 3 months of the date of service.
8. By e-mail dated 19 July 2016 the Landlord informed the Committee of the creation of a joint bank account for the monies for the common repairs albeit one owner still required to contribute his share of the projected costs of the repairs. She requested a variation of the Order to allow the works to be completed by the end of October 2016.

Reasons for the decision

9. Section 25(2) and (3) of the Housing (Scotland) Act 2006 provide that where the Committee consider that the work required by the RSEO has not been completed during the period within which the RSEO required the work to be completed and the committee consider that satisfactory progress has been made in carrying out the work required, the Committee must vary the RSEO so as to further extend the period for completion or in any other manner they think fit.
10. The Committee are satisfied that some satisfactory progress has been made towards carrying out the works. The Committee have therefore decided to grant the Landlord's request for a further variation.
11. For the avoidance of doubt the Committee note – as they did in the Statement of Reasons for Variation No.4 – that the work in Option 2 of the Richard Irvin quotation dated 27 August 2015 remains necessary given recommendation 6 of the Squire Associates letter dated 29 August 2014.
12. The Committee observes, in passing, that the work in Option 1 of the quotation relating to the stairwell floor is not necessary in terms of the

RSEO. The reasoning is set out in the Statement of Reasons for Decision No. 2 (the first variation) dated 30 January 2015. For the avoidance of doubt, the work to the windows on stairway landings remains necessary, being the recommendation numbered 8 in the Squire Associates letter.

13. The Landlord and her solicitors are reminded, once again, that she can apply to the Committee for variation of the time limit in this decision. It is for the Landlord to ensure compliance with the RSEO. She cannot delegate this duty to comply. Equally inappropriate advice does not exclude the duty to comply with the RSEO.
14. If there is likely to be any further delay preventing completion by the end of October 2016, the Committee expects an application to vary to be made well before the expiry of the time limit with full reasons given and an alternative estimated time of completion. Failing such an application the Landlord cannot expect any further variation of the time limit. Given the time that has elapsed since the obtaining of the Squire Associates report the Committee expects every possible step to be taken to avoid further delay.

Decision

15. In the exercise of its discretion the Committee varied the RSEO as set out above. The decision of the Committee was unanimous.

Rights of Appeal

16. A landlord or tenant aggrieved by this decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.
17. Unless the lease or tenancy between the parties has been brought to an end, the appropriate respondent in such appeal proceedings is the other party to the proceedings and not the Committee which made the decision.

Effects of Section 63 of the 2006 Act

18. Where such an appeal is made, the effect of this decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.
19. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

....Date: 29 July 2016

David Bartos, Chairperson