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**Notice of Variation No.3
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 and by the **Notice of Variation** dated 30 January and served on or about 9 February both 2015 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 within the period of four months from the date of service of this Notice.

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.



**Decision (No.3) 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")

Title No: ABN73769

The Parties:-

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

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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 and January 2015 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 within the period of four months from the date of service of the notice of this variation.

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 29th 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. By e-mail to PRHP dated 17 August 2015 the Landlord indicated that she had received confirmation from three of the six flat owners in the tenement that they wished to go ahead with the repairs. She indicated that the quotations forwarded to the Committee in December 2014 had proved to be unacceptable "for various reasons". She indicated that another comprehensive quotation would be forthcoming. By e-mail dated 29 August to the PRHP and forwarded to the Committee on 3 September, the Landlord lodged a quotation from Richard Irvin Energy Solutions for the carrying out of the work. It did not contain any estimated timescale.

Reasons for the decision

7. 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.
8. In the light of the progress in obtaining the consent of the other flat owners and the obtaining of the quotation from Richard Irvin Energy Solutions, the Committee consider that satisfactory progress has been made in carrying out the work required by the RSEO.
9. The question for the Committee is what time limit should be set in varying the RSEO. It is important that the progress identified be continued. The Committee appreciates the difficulties in obtaining the consent of the other owners but there are procedures available in the Tenements (Scotland) Act to deal with such situations. The matter has been outstanding for over two years.

- 10. In the whole matter, the Committee takes the view that 4 months from the service of this third Notice of Variation forms a reasonable timescale for the carrying out of the outstanding works in the RSEO.
- 11. The Landlord and her solicitors are reminded that she can apply to the Committee for variation of the time limit in this decision. If there is likely to be any unexpected delay preventing completion within 4 months, the Committee would expect to be kept informed. The Committee would strongly encourage that any application to vary the 4 months be made well before the expiry of the time limit with a full reasons given.

Decision

- 12. 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

- 13. 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.
- 14. 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

- 15. 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.
- 16. 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.

D BARTOS 

Signed
2015.....

.....Date: 17 September 2015

David Bartos, Chairperson