



**Notice of Variation
of
A Repairing Standard Enforcement Order**

Ordered by the Private Rented Housing Committee

prhp ref: RP/16/0036

Re 22 Lamont Crescent, Cumnock, East Ayrshire, KA18 3DU being the subjects registered in the Land Register of Scotland under title number AYR50809 ('the Property')

The Parties:-

Ms Charlene E. Ogg, residing at the Property ("The Tenant')

Mr Ian Urquhart, residing at 63 Brewland Street, Galston, East Ayrshire and Mr Scott Urquhart, residing at 74 Dolphin Drive, Long Bay, St Philip, Barbados ("The Landlord")

NOTICE TO

Mr Ian Urquhart and Mr Scott Urquhart

The Private Rented Housing Committee having determined on 6th October 2016 that the **Repairing Standard Enforcement Order** relative to the Property dated 26th April 2016 be varied, the said **Repairing Standard Enforcement Order is HEREBY VARIED** with effect from the date of service of this Notice in the following respect:-

- 1) The Landlord requires to provide a suitable heating system for the Property and provide to the Committee a certificate from a qualified Gas Safe Registered Engineer confirming that the system is effective and safe.**

(Section 13 (1) (c) of the 2006 Act).

2) The Landlord requires to produce to the Committee a Portable Appliance Testing Report in acceptable terms in respect of any electrical appliances supplied by the Landlord.

(Section 13 (1) (d) of the 2006 Act).

The RSEO requires to be complied with by 30th November 2016

Subsection 25(3) of the Housing (Scotland) Act 2006 does 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.

Chairman

Martin J. McAllister

At SALTCOATS on 6th October before

Paula Sinclair, Witness

Paula Sinclair

51 Hamilton Street, Saltcoats, KA21 5 DX



Determination by Private Rented Housing Committee

Statement of decision of the Private Rented Housing Committee under Section 25 (1) of the Housing (Scotland) Act 2006

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The Parties:-

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Mr Ian Urquhart, residing at 63 Brewland Street, Galston, East Ayrshire and Mr Scott Urquhart, residing at 74 Dolphin Drive, Long Bay, St Philip, Barbados ("The Landlord")

Decision

The Committee, having made such enquiries as it saw fit determined

(One) to continue to determine the application in terms of Paragraph 7 (3) (b) (i) of Schedule 2 of The Housing (Scotland) Act 2006 ("the 2006 Act") and

(Two) to vary the repairing standard enforcement order ("the RSEO") in terms of Section 25 of the 2006 Act in relation to the Property as follows:

- 1) The Landlord requires to provide a suitable heating system for the Property and provide to the Committee a certificate from a qualified Gas Safe Registered Engineer confirming that the system is effective and safe.
(Section 13 (1) (c) of the 2006 Act).**

- 2) The Landlord requires to produce to the Committee a Portable Appliance Testing Report in acceptable terms in respect of any electrical appliances supplied by the Landlord.
(Section 13 (1) (d) of the 2006 Act).**

The RSEO requires to be complied with by 30th November 2016

Background

1. By application received on 27th January 2016 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the 2006 Act.

2. On 20th April 2016 a private rented housing panel committee comprising Martin McAllister, chairman and George Campbell, surveyor member (The Committee), inspected the Property and thereafter a Hearing was held. The Committee determined that a repairing standard enforcement order be made and it was dated 26th April 2016. The RSEO was in the in the following terms:

a) The Landlord requires to provide a suitable heating system for the Property including a gas fire in the living room and provide to the Committee a certificate from a qualified Gas Safe Registered Engineer confirming that the system is effective and safe.

(Section 13 (1) (c) of the 2006 Act).

**b) The Landlord requires to repair the fence at the front of the Property.
(Section 13 (1) (b) of the 2006 Act).**

**c) The Landlord requires to ensure that heat and smoke alarms comply with the requirements of the revised Domestic Technical Handbook issued by Scottish Government's Building Standards Division (Technical Handbooks 2013:- Domestic-Fire)
(Section 13 (1) (f) of the 2006 Act).**

**d) The Landlord requires to install the replacement French doors between the living room and the kitchen, repair the door between the living room and the hall and ensure that the meter cupboard door can be closed securely.
(Section13 (1) (b) of the 2006 Act).**

**e) The Landlord requires to produce to the Committee a Portable Appliance Testing Report in acceptable terms in respect of any electrical appliances supplied by the Landlord.
(Section 13 (1) (d) of the 2006 Act).**

**f) The landlord requires to install a functioning carbon monoxide detector.
(Section 13 (1) (g) of the 2006 Act).**

The Committee ordered that the works requiring to be done in terms of the repairing standard enforcement order be completed within eight weeks of service of the RSEO.

3. On 8th July 2016 the surveyor member of the Committee inspected the Property and found that items (b), (c), (d) and (f) of the RSEO had been completed satisfactorily. It was found that items (a) and (e) of the RSEO had not been completed. The Committee has not had sight of a relevant Portable Appliance Testing Report and no satisfactory report by a Gas Safe Registered Engineer.

4. On 4th July 2016 the landlord's agents advised the Committee that the Tenant was due to move out of the Property on 16th August 2016. Notwithstanding that the Tenant is no longer a party to the Hearing, she is referred to as such in this Decision for the sake of consistency.

5. On 5th October 2016 the Committee attended at the Property. The Landlord was not present and was not represented. A heating engineer was present and allowed the Committee to inspect the Property.

6. Findings on Inspection

6.1 The Gas fire/back boiler had been removed from the fireplace and was sitting in the living room.

6.2 A new condensing boiler was in packaging in the living room.

6.3 The central heating engineer said that a new boiler is to be installed in the Property. At the time of inspection he was fitting thermostatic valves on radiators as part of the work. He said that he did not think a gas fire was to be fitted.

7. The Hearing

Following the Inspection, a Hearing took place at Barrhill Community Centre. Neither the Tenant nor the Landlord were present. The members of the Committee were disappointed that the Landlord had not attended either the inspection or the Hearing and had made no written representations on the matter.

8. Preliminary Issue

The Committee noted that the tenancy had been lawfully terminated and it considered the terms of paragraph 7, schedule 2 of the 2006 Act. The Committee decided to continue to determine the application in terms of Paragraph 7 (3) (b) (i) of the 2006 Act because of public safety issues in connection with the failure to maintain the Property to the repairing standard.

9. Evidence

It was clear from the Inspection that the gas fire had been removed and that steps are being taken to replace the central heating boiler. The Committee had not received a certificate in respect of any portable appliances.

10. Issues

The RSEO had not been complied with and the Committee had regard to the terms of Section 26 of the 2006 Act and the possibility of serving a notice of failure. The terms of the 2006 Act are clear that a notice of failure must be served but, notwithstanding that, the Committee considered it possible that the Landlord may have had issues with access to do the extensive work that is now being carried out and that perhaps such work could only be carried out after the tenancy had been lawfully terminated. The Committee had difficulty in determining matters particularly because the Landlord had chosen not to participate in the Inspection or the Hearing. The Committee noted that the Property is being improved and it decided to take the pragmatic approach of varying the RSEO to allow time for the work to be completed. The Committee considered whether or not it would be appropriate to insist that the gas fire be replaced. It decided that it would not be appropriate. The original RSEO was made in a situation where the central heating boiler and the gas fire were one unit. The new boiler would be a separate unit. The Committee saw no reason not to insist on production of the appropriate certificate in respect of any portable appliance.

14. Decision

The Committee accordingly varied the RSEO as follows:

- 1. The Landlord requires to provide a suitable heating system for the Property and provide to the Committee a certificate from a qualified Gas Safe Registered Engineer confirming that the system is effective and safe.
(Section 13 (1) (c) of the 2006 Act).**
- 2. The Landlord requires to produce to the Committee a Portable Appliance Testing Report in acceptable terms in respect of any electrical appliances supplied by the Landlord.
(Section 13 (1) (d) of the 2006 Act).**

The RSEO requires to be complied with by 30th November 2016

Right of Appeal

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.

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.

Signed
Martin J. McAllister
Chairperson

..... Date 6th October 2016