



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

prhp Ref: PRHP/RP/15/0340

**Re : Property at 45b Culloden Road, Arbroath, DD11 1LH ("the Property")**

**The Parties:-**

**Linda Brennan, formerly residing at 45b Culloden Road, Arbroath, DD11 1LH ("the former Tenant")**

**and**

**Stobsmuir Enterprises Limited, 69 Victoria Street, Dundee, DD4 6EA ("the Landlord(s)")**

**NOTICE TO STOBSMUIR ENTERPRISES ("the Landlord")**

The Private Rented Housing Committee having determined on 1 November 2016 that the **Repairing Standard Enforcement Order** relative to the Property served on 29 April 2016 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 six weeks.

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(s) are executed by Ruth O'Hare, Solicitor, 7 Mossbeath Grove, Glasgow, G71 7UU, chairperson of the Private Rented Housing Committee at Glasgow on 1 November 2016 before this witness:-

L. GRANT

R. O'HARE

\_\_\_\_\_ witness

chairman

Lauren Grant, Trainee Solicitor

c/o Stirling Council, Old Viewforth, Pitt Terrace, Stirling



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

prhp Ref: PRHP/RP/15/0340

Re : Property at 45b Culloden Road, Arbroath, DD11 1LH (“the Property”)

### The Parties:-

Linda Brennan, formerly residing at 45b Culloden Road, Arbroath, DD11 1LH (“the former Tenant”)

and

Stobsmuir Enterprises Limited, 69 Victoria Street, Dundee, DD4 6EA (“the Landlord(s)”)

### The Committee comprised:-

Mrs Ruth O’Hare - Chairperson

Mr David Godfrey - Surveyor member

### Decision

The Committee having made such enquiries as it saw fit for the purpose of determining whether the Landlord had complied with the Repairing Standard Enforcement Order (“RSEO”) in relation to the Property, determined that the Landlord should be given an extension of six weeks to the period allowed for completion of the works required all in terms of Section 25(1) of the Housing (Scotland) Act 2006.

### Background

1. Reference is made to the determination of the Committee dated 19 April 2016 which determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act in that he had failed to ensure that the Property met the Repairing Standard. The works required by the RSEO were:-
  - (a) Investigate and repair the source(s) of water penetration to the property and render the property wind and watertight;
  - (b) Carry out such works as are necessary to repair the ceilings in the bedroom and bathroom;
  - (c) Install smoke/heat detectors in the Property in accordance with the Scottish Government Statutory Guidance currently in force; and
  - (d) Carry out all works required to make good decoration in the property following the above works.

The RSEO gave the Landlord three months to carry out the works.

2. On 3<sup>rd</sup> August 2016 the Surveyor Member of the Committee, Mr David Godfrey, re-inspected the property on behalf of the Committee. Dr Mohammed El Bakary was present

as a Director of the Landlord company and gave access to the Property. The Surveyor Member noted:-

- (a) That smoke detectors had been installed in the hall, lounge and kitchen; and
- (b) That the bathroom ceiling had been repaired and redecorated.

The Surveyor Member noted the following outstanding items:-

- (a) That the roof covering to the rear of the building and rainwater fittings to the front and rear of the building were still showing signs of deterioration;
- (b) That the bedroom ceiling remained unrepaired and water penetration was visible on the bedroom floor;
- (c) That the fittings for the smoke detectors were incomplete and two were incorrectly positioned.

3. On 18<sup>th</sup> October 2016 the Committee held a hearing at Caledonian House, Dundee. Dr El Bakary attended the hearing on behalf of the Landlord and was accompanied by Aileen Taylor. The Landlord submitted as follows:-

- (a) That the water penetration came from the flat above the property. The owner of the upstairs flat could not be contacted and had not taken any steps to carry out the necessary repairs to resolve the issue. The Landlord had telephoned the owner's agent to try and arrange for repairs to be carried out but had not put anything to him in writing. The Landlord had also attempted to obtain assistance from the local authority but they were unwilling to take any action.
- (b) That the smoke detectors could not be correctly fitted and positioned until the water penetration was resolved.
- (c) That the bedroom ceiling could not be repaired and redecorated until the water penetration was resolved.
- (d) That the Landlord had no intention of renting the property until the repairs required under the RSEO were completed.

4. The Committee considered how to proceed in light of the Landlord's representations. The Members noted the terms of the RSEO which required the source of the water penetration to be identified and the necessary repairs carried out. It was evident that access would be required to the upstairs flat in order to facilitate this. The Committee noted that the Landlord had indicated attempts had been made to contact the owner of the upstairs flat. However the Committee was conscious that it would require proof in the form of written notice in order to satisfy itself that all reasonable steps had been taken by the Landlord to carry out the works. The Landlord stated at the hearing that he would be willing to write to the owner in this regard however the Committee was concerned that he appeared to have delayed in doing so, despite having been advised by the Surveyor Member at the re-inspection that this would be required.

The Committee was however conscious that the property was unoccupied and the Landlord was aware of the effect of the RSEO, namely that he would be unable to let the property whilst it remained in place. The Committee also noted that some steps had been taken by the Landlord to comply with the terms of the RSEO. The Committee therefore determined that it would be appropriate to give the Landlord a final opportunity to take all reasonable steps for the purpose of carrying out the work required under the RSEO by providing written evidence of attempts at contact with the owner of the upstairs property. The Landlord was made aware that it was in his best interest to seek independent legal

advice as to his rights in this regard and it was not the role of the Committee to provide advice on the matter.

The Committee was of the view that a period of six additional weeks would be sufficient for the evidence to be produced.

### **Decision**

5. The Decision of the Committee was to vary the RSEO to give the Landlord a period of six weeks from the date of service of this decision to take all reasonable steps to comply with the 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. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the panel or the committee which made the decision.

### **Effect of section 63**

8. 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.

R. O'HARE

Signec.

Date 1 November 2016

Ruth O'Hare  
Chairperson