



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

**prhp Ref: PRHP/RP/0012**

**Re: Property at 1/ 2 152 Almada Street, Hamilton ML3 0EW (“the Property”)**

**Title Number: LAN 40229**

**The Parties:-**

**Ajmal Mushtaq, 78 Union Street, Hamilton ML3 6NE (“the Landlord”)**

**Liam White and Chloe Balfour, formerly residing at 1/2 152 Almada Street, Hamilton (formerly “the Tenant”)**

**NOTICE TO Ajmal Mushtaq (“the Landlord”)**

The Private Rented Housing Committee having determined on 29 August 2016 that the **Repairing Standard Enforcement Order** relative to the Property dated 23 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 for a further four 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 are executed by Josephine Bonnar, Solicitor, Chairperson of the Private Rented Housing Committee at Motherwell on the 29 August 2016 before this witness:-

J Bonnar

—	_____ Witness	Chairperson
Gerard Bonnar	Name in full	
58 Port Dundas Road, Glasgow	Address	
Solicitor	Occupation	



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

**prhp Ref: RP/16/0012**

**Re: Property at 1/2 152 Almada Street, Hamilton ML3 0EW (“the Property”)**

**Title Number: LAN 40229**

**The Parties:-**

**Liam White and Chloe Balfour (“the former Tenant(s)”)**

**Ajmal Mushtaq, 78 Union Street, Hamilton ML3 6NE; Next Move Scotland  
Ltd, 40 Gateside Street, Hamilton, ML3 7JG (“the Landlord”)**

**Decision**

**The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Repairing Standard Enforcement Order (“RSEO”) relative to the property should be varied in terms of Section 25(1)(a) of the Housing (Scotland) Act 2006 agreed that the RSEO should be varied.**

**The Committee comprised:-**

**Mrs Josephine Bonnar, Chairperson**

**Ms Carol Jones, Surveyor Member**

**Background**

1. By application received on 18 January 2016 the Tenants applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. The Application by the Tenants stated that the Tenants considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:- the house is wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order; any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order; any furnishings provided by the landlord under

## **The Re-inspection**

7. Shortly prior to the re-inspection an email had been received from the Landlord advising that the works required in terms of the Order had not been completed. This was confirmed by the Landlord verbally at the Inspection. The Committee inspected the ceiling in the living room. The patches of damp were still evident, although not noticeably worse. The patches of damp in the kitchen were still evident and possibly worse than at the first inspection. No re-plastering or painting had been carried out in either room. The Committee inspected the windows in the master bedroom. No water ingress was apparent but the centre and right lower units were in the same condition as at the first inspection. The Committee thereafter inspected the living room windows which were also in the same condition as at the previous inspection. The Committee noted the washing machine in the kitchen. The Landlord indicated that he had arranged for it to be checked and does not believe it to be faulty. He was unable to advise the Committee when this check had been carried out. He also stated that the roof over the kitchen had been looked at by a contractor who had not identified any defect. Again no information about when this had been carried out was provided. Lastly he confirmed that he has not installed a smoke detector in the living room as his electrician told him that this is unnecessary. In the course of the inspection the Landlord also advised that the repair work had not been carried out because he has had other priorities and that as the property is unoccupied he did not consider there to be any urgency. He further advised that he intended to attend to the works within 4 to 6 months.

## **The Hearing**

8. At the Hearing the Landlord gave evidence. He advised the Committee that for a variety of personal and business related reasons he had not been able to attend to the works. He also explained that he had only managed to obtain the keys from the Letting Agent 3 weeks previously and stated that the Letting Agent is no longer acting on his behalf. He further stated that he has considered converting the property into an office. In response to questions by the Committee the Landlord confirmed that he understood that is obliged to comply with the Order and that he cannot re-let the property meantime. He confirmed that he is committed to getting the work carried out and does not intend to re-let the property until it is complete. Contrary to his earlier statement he indicated that he wishes to re-let and indicated that he might be able to get the works completed within 3 months or even less. He stated that he will speak to the electrician about the smoke detector in the living room despite his reservations about this aspect of the order. He confirmed that he would comply with the order and that he

was seeking a variation of the Order to allow time to complete the works.

### **Reason for decision**

9. The Committee was concerned that the Landlord has made no attempt to carry out any of the works contained within the Order although he has had almost three months to do so. Furthermore, the Landlord's explanation for his failure was neither reasonable nor convincing. His evidence was at times contradictory. However, the Committee noted that the property is currently unoccupied and was satisfied that the Landlord appeared committed to having the works carried out in the near future with a view to re-letting the property thereafter. However, the Committee was of the view that given the time which has already elapsed it would not be reasonable to grant a further 3 or 4 months. The Committee concluded that the order should be varied so as to allow a further four weeks for completion of the work.

### **Decision**

10. The Committee accordingly determined that further time should be allowed for the works to be carried out and that the RSEO should be varied by extending the time for completion of the work by a further four weeks.
11. The decision of the Committee was unanimous

### **Right of Appeal**

12. **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**

13. 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...  
Josephine Bonnar, Chairperson

.....Date 29 August 2016



Schedule of photographs taken during the inspection of 1/2, 152 Almada Street, Hamilton ML3 0EW by the Private Rented Housing Committee on 22 August 2016.

Reference Number : PRHP/RP/16/0012



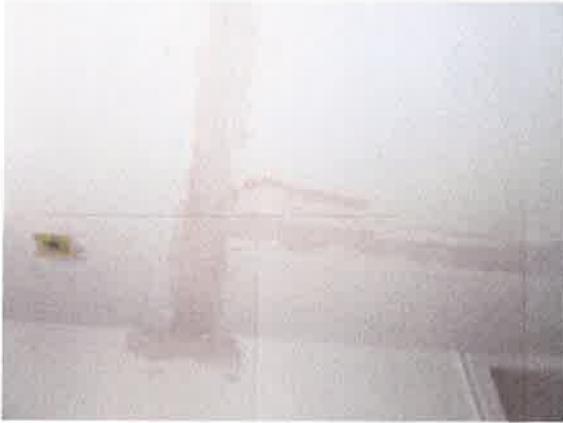
Front Elevation



Living Room Ceiling



Kitchen Ceiling and walls



Kitchen Ceiling



Kitchen Ceiling - recess



Washing machine



Front Bedroom Windows - centre and right



Living Room Bay window