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**Notice of Variation No.2**  
**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 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 six 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.**

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 typewritten on this and the preceding page(s) are executed by David Bartos, Advocate, Parliament House, Parliament Square, Edinburgh EH1 1RF, Chairperson of the Private Rented Housing Committee at Edinburgh on 30 January 2015 before this witness:-

David Bartos witness

chairperson

Claire Borthwick

CLAIRE BORTHWICK name in full

34 Southfield Farm Grove Address

DUNNINGTON

EDINBURGH

EH15 1SR

NURSE Occupation



**Decision (No.2) 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")**

**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 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 six 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 29<sup>th</sup> 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.
3. In the Notice of Variation the Committee provided that the work recommended to be carried out together with the work in part (c) of the RSEO would be carried out within a time to be fixed by the Committee following production of the report containing the recommendations and upon the Committee being satisfied that part (a) of the RSEO had been complied with.
5. By direction dated 26 September 2014 the Committee directed the Landlord to lodge with the Private Rented Housing Panel a written submission on the length of time that she anticipated would be a reasonable time for the carrying out of the work recommended in the Squire Associates report. The landlord responded with a letter dated 26 October 2014. In it she indicated that a date into 2015 was a more realistic timescale for completion of the work. She also indicated that the three contractors from whom she had requested quotations had indicated that while some work could be done immediately other work would not be viable to complete in 2014.
6. By direction dated 11 November 2014 the Committee *inter alia* directed the Landlord to lodge with the Panel quotations or estimates from contractors for the carrying out of the recommended works to include any estimated timescales for the carrying out of any parts of the works.
7. By e-mail dated 10 December 2014 the Landlord lodged one quotation from Graeme W Cheyne (Builders) Limited dated 2 December 2014 for the recommended works. It did not contain any estimated timescale.
8. Having concluded that part (a) of the RSEO has been complied with the Committee requires to fix a date for the carrying out of the work recommended in the Squire Associates Report to make the window areas of the Property wind and watertight. That work does not include the carrying out of timber treatment repairs to the stairwell flooring (item 7 of the report). The Committee has been delayed in the making of its decision by the illness of its Chairman but is now in a position to do so.

#### **Reasons for the decision**

9. Section 25(1) of the Housing (Scotland) Act 2006 provides,

"The private rented housing committee which made a repairing standard enforcement order may, at any time -

- (a) vary the order in such manner as they consider reasonable; or
- (b) where they consider that the work required by the order is no longer necessary, revoke it."

10. The question for the Committee is what time limit should be set in varying the RSEO. Setting a time limit is not a straightforward task. The Committee appreciates that time must be allowed for the actual carrying out of the work. In addition the Landlord may require time to obtain permissions to enable the contractors to have access to carry out their work. The Committee was however not given any clear timescale from the Landlord as to either matter despite the terms of the September and November 2014 directions.
11. In the whole matter, the Committee taking account of the fact that a quotation has been obtained and its own expertise as to the likely duration of the works, takes the view that 6 months from the service of this second Notice of Variation forms a reasonable timescale for the carrying out of the outstanding works in the RSEO.
12. The Landlord and her solicitors are reminded of the ability to apply to the Committee for variation of any time limit in variation now being made. Given the delay that has been experienced thus far, however, the Committee would strongly encourage that any such application be made well before the expiry of the time limit with a full reasons given. While there exists power for a retrospective variation it cannot be taken that any future variation would be decided with that effect.

### **Decision**

13. 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**

14. 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.
15. 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**

- 16. 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.
- 17. 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 ... **David Bartos** .....Date: 30 January  
2015.....

David Bartos, Chairperson

Signature of Witness... **Claire Borthwick** .....Date... 30/1/15

Name of witness: CLAIRE BORTHWICK

Address: 24 SOUTHFIELD FARM GROVE  
DUNNINGTON, EDINBURGH,  
EH15 1SR

Occupation of witness: NURSE