



Notice of a decision to Revoke

A Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: Prhp/EH54/119/11

Re : Property at 185 Clement Rise, Dedridge, Livingston EH54 6LP ("the house")

Title No : MID34869

The Parties:

Mohsan Javaid Syed, 15 Clova Drive, Livingston EH54 9HD (represented by his agent Laverne Hastie, 36 Argyll Wynd, Carfin, Motherwell ML1 1GJ) ("the Landlord")

Vanessa Garner, 145 Huron Avenue, Howden, Livingston EH54 6LQ ("the Former Tenant")

NOTICE TO Mohsan Javaid Syed, 15 Clova Drive, Livingston EH54 9HD (represented by his agent Laverne Hastie, 36 Argyll Wynd, Carfin, Motherwell ML1 1GJ)

The Private Rented Housing Committee having determined on 19 April 2013 that the work required by part (c) of the Repairing Standard Enforcement Order dated 23 September 2011 as varied on or about 7 November 2011 and on or about 27 April 2012 is no longer necessary, and that the other work required by the said Order (as varied) had been completed, the said **Repairing Standard Enforcement Order is hereby revoked** with effect from the date of service of this Notice.

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 revocation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the revocation 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 page are executed by David Bartos, advocate, Advocates' Library, Parliament House, Parliament Square, Edinburgh EH1 1RF, chairperson of the Private Rented Housing Committee at Edinburgh on 19 April 2013 before this witness :-

D Bartos

chairman

G Grant

witness

GILLIAN ANNE GRANT name in full

20 WHITE DALES Address

EDINBURGH

ETHIO 7JCO

DIRECTOR Occupation



**Decision 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 /EH54/119/11

Re : Property at 185 Clement Rise, Dedridge, Livingston EH54 6LP ("the house")

Title No: MID34869

The Parties:-

Vanessa Garner, 185 Clement Rise, Dedridge, Livingston EH54 6LP ("the Tenant")

**Mohsan Javaid Syed, 15 Clova Drive, Livingston EH54 9HD ("the Landlord"),
(care of his agent Laverne Hastie, 36 Argyll Wynd, Carfin, Motherwell ML1 1GJ)**

The Committee comprised:-

| | |
|------------------------|-------------------|
| Mr David Bartos | - Chairperson |
| Mr Ian Mowatt | - Surveyor member |
| Mrs Christine Anderson | - Housing member |

Decision

The Committee revoked the Repairing Standard Enforcement Order dated 23 September 2011 as varied on or about 7th November 2011 and on or about 27th April 2012.

Background:-

1. The Committee issued a Repairing Standard Enforcement Order ("RSEO") in respect of the house dated 23 September 2011. The Committee issued a variation of the RSEO on or about 4 November 2011. In terms of that variation the works in the RSEO required to be completed by 25 November 2011. On 30th November 2011 Mr Mowatt carried out a reinspection of the house. He found that the work remained uncompleted in material respects. Owing to uncertainty over whether the tenancy was continuing, and whether the works were continuing the Committee took no decision on a failure to comply with the RSEO at that stage. On 2nd February 2012 Mike Links, a surveyor instructed by the Committee carried

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out a reinspection of the house. He found that the works had been completed apart from those in parts (c), (k) and (l) of the RSEO. He produced a Re-inspection Report dated 3rd February 2012 which is referred to for its terms. He was told by the Landlord's then agent, Stephen Kerr of J & C Property Lettings that an electrical certificate had been obtained in respect of part (c) of the RSEO. He was also advised by the agent that part (l) (smoke alarms) would be attended to as soon as possible.

2. The Landlord's then agents thereafter forwarded to the Committee :
 - (1) pages 1 and 2 of a 7 page "Domestic Electrical Installation Condition Report" from an R. Smith of Livingston Property Maintenance Ltd dated 6th February 2012;
 - (2) "Domestic Periodic Inspection Report for an Electrical Installation" from an Alex Boyd of A.C. Electrical Services dated 12th February 2012.
3. None of these firms had been approved by the NICEIC and the Livingston Property report disclosed that two items were found to present danger and risk of injury and requiring immediate remedial action. Some further 7 items were found to be potentially dangerous requiring urgent remedial action and some 5 items were found to be recommended for improvement.
4. By letter to the Landlord's agents issued on or about 2nd April 2012 the Committee's clerk intimated to the Landlord Mr Links' re-inspection report, the e-mail from the NICEIC and the Scottish Government guidance on smoke alarms and invited the Landlord to comment on whether there had been failure to comply with the RSEO.
5. By e-mail of 16th April 2012 the Landlord's new property manager Laverne Hastie informed the Committee that she had taken over the management of the house from J & C Property Lettings. In the last sentence of the e-mail she applied for a variation of part (c) of the RSEO.
6. By their decision of 27th April 2012 the Committee decided to refuse to vary part (c) of the RSEO as requested by the Landlord but instead varied it to make it reflect the terms of the Livingston Property report. The Landlord was given a further opportunity to have the house checked by an NICEIC contractor or electrician from such a contractor. This second variation of 27th April 2012 was intimated to the Landlord's agent on or about 6th June 2012 by e-mail and recorded delivery post. The work required to be carried out within 21 days from the service of the second variation.
7. On 15th August 2012 the Committee's surveying member carried out a further re-inspection of the house. He was admitted by a Mr Charles Bird who claimed to be the father of a fresh tenant. A Scott Hewie of Your Home Your Way purporting to represent the Landlord was also present. All work except that in part (c) of the RSEO had been carried out. By letter to the Landlord's agent of on or about 11th September 2012 she was issued with Mr Mowatt's re-inspection report and a form requesting the intimation of

reasons why all works had not been completed. There was no response from the Landlord's agent or the Landlord and as a consequence in October 2012 the Committee made a decision under s. 26(1) of the 2006 Act that the Landlord had failed to comply with the RSEO as varied. This was served on West Lothian Council and the Landlord's agent.

8. On or about 19th December 2012 the Landlord's agent forwarded to the Committee a Domestic Electrical Installation Condition report dated 11th December 2012 from an NICEIC approved electrical contractor namely John Hughes Electrical Contractors of Carluke. This disclosed that the part (c) of the RSEO had been complied with, with the exception of two items namely a shower circuit and upstairs light where further investigation was required. The report is referred to for its full terms which are incorporated into this statement.
9. By her e-mail of 17th December 2012 the Landlord's agent had requested the Committee to consider revoking the RSEO. By e-mail intimated by the PRHP on 7th February 2013 the Landlord's agent was informed that the 2 items in the John Hughes report should be attended to so that the Committee could be satisfied that they were in a reasonable state of repair and proper working order.
10. By e-mail of 11th April 2013 the Landlord's agent stated that she would like to proceed with the revocation request and enclosed a copy invoice addressed to the Landlord dated 20th February 2013. The invoice indicated that "All works reported on the NICEIC inspection sheet and PRHP requirements carried out to BS7671 17th edition by SJIB Select approved electrician Chris Johnnton Grade card no AP L99342". The invoice was for works to a bedroom (all of which are upstairs) and the bathroom which correspond to the items identified in the John Hughes report.
11. By letters to both the Landlord's former agents and the Tenant dated 14th December 2011 the Committee enquired as to whether the tenancy had been terminated by agreement. There being no reply to those letters from either party the Committee made a further inquiry by means of letters to both the Landlord's former agents and the Tenant dated 8th March 2012. By said letters the Committee intimated that in the absence of a reply by 20th March 2012 they would draw an inference that the tenancy had been lawfully terminated. There was no response to said letters. The Committee decided that in the light of the evidence before it further intimation to the Tenant of its decisions or applications or correspondence intimated to it was unnecessary.
12. The evidence before the Committee consisted of that mentioned in the previous statements of reasons for the variation and s. 26(1) decisions and :-
 - E-mail dated 17th December 2012 from Ms Hastie to the Committee

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- Copy Domestic Electrical Installation Condition Report by NICEIC approved contractor John Hughes Electrical Contractors dated 11th December 2012
- E-mail from PRHP to Ms Hastie dated 7th February 2013
- E-mail from CJ Electrical Contractors to Ms Hastie dated 7th March 2013
- E-mail from Ms Hastie to the PRHP dated 9th April 2013
- Invoice dated 20th February 2013 attached to last two e-mails.
- SJIB website www.sjib.org.uk

Findings of Fact

5. Having considered all the evidence, the Committee found the following facts to be established :-
- (a) The electrical system of the house is as set out in the said John Hughes report as modified by work carried out in or about February 2013 by SJIB approved electrician Chris Johnston Grade Card No. AP L99342 and set out in the invoice of 20th February 2013 addressed to the Landlord.
 - (b) All of the other work set out in the RSEO (as varied) has been carried out as set out in the previous statements of reasons dated 27th April 2012 and on or about 30th October 2012.
 - (b) By the end of 2011 the tenancy had been mutually renounced and terminated.

Reasons for Decision

6. None of the findings in fact were in dispute. The Committee had no difficulty in accepting the John Hughes report. On the basis of the invoice of 20th February 2013 the Committee had no reason to doubt that the work set out in that invoice had also been carried out. That work appeared to cover both outstanding items set out in the John Hughes report. While there was no evidence that it had been carried out by an NICEIC approved electrical contractor (which was a requirement of the RSEO), the invoice did indicate that the Mr Johnston, the electrician who had carried out the work was an SJIB (Scottish Joint Industry Board for the Electrical Contracting Industry) Select approved electrician. In terms of the publicly available SJIB website an approved electrician must have completed two years' experience as a graded electrician prior to application for the approved grade. In addition they must have successfully passed an Advanced Competence Assessment (ACA), the 1995 apprentice training scheme or an approved equivalent.
7. In these circumstances the Committee were satisfied that the objective of the NICEIC requirement, namely the existence of some quality control

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over the person entrusted with the electrical inspection or repairs was satisfied.

- 8. Given that all of the work in the RSEO has been completed the Committee would have been minded to issue a certificate of completion. However given the technical non-compliance regarding the NICEIC requirement, the Committee decided to issue a notice of revocation as sought by the Landlord's agent. This is on the basis that further work or inspection by an NICEIC approved electrician is no longer required and all other work in the RSEO has been completed.

Decision

- 9. The Committee revoked the RSEO as varied. The decision of the Committee was unanimous.

Rights of Appeal

- 10. 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.
- 11. 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 Private Rented Housing Panel whose Committee which made the decision.

Effects of Section 63 of the 2006 Act

- 12. 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.
- 13. 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 Date: 19 April 2013.....

David Bartos, Chairperson

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Signature of Witness..... Date 19 APRIL 2013.....

Name, address and occupation of witness (please print) :-

CILLIAN ANNE GRANT

20 WHITE DALES

EDINBURGH EH107JQ