



## **Notice of a decision to Vary**

### **A Repairing Standard Enforcement Order**

**Ordered by the Private Rented Housing Committee**

**prhp Ref: PRHP/RP/13/0007**

**Re : Property at 9 Faulds Road, Montrose, DD10 8PR ("the Property")**

**The Parties:-**

**Esther Jane Fraser Davidson, c/o Richard Davidson, Flat 41, Bartholomew Court, Bartholomew Street, Newbury RG14 5HF ("the Landlord")**

**Gary Stewart, formerly of 9 Faulds Road, Montrose, DD10 8PR ("the Tenant")**

#### **NOTICE TO Esther Jane Fraser Davidson ("the Landlord")**

The Private Rented Housing Committee having determined on 17 December 2013 that the **Repairing Standard Enforcement Order** relative to the Property served on 5 August 2013 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 respect:-

The steps which the Committee require the landlord to take in complying with the order are amended as follows :- by removing requirement no.6 thereof, the requirement to erect a garage, and by extending the period for compliance with the remaining outstanding provisions by 42 days from the date of intimation of this decision.

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.

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In witness whereof these presents type written on this and the preceding page(s) are executed by John McHugh, solicitor, 3 Ponton Street, Edinburgh, Chairperson of the Private Rented Housing Committee at Edinburgh on 23 December 2013 before this witness:-

**S Ross**

witness

**J McHugh**

Chairman

JURGENE ANDERSON ROSS name in full

3 PONTON STREET Address

EDINBURGH

EH2 3NH

SOLICITOR Occupation



**DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE**

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE  
UNDER SECTIONS 25(1)  
OF THE HOUSING (SCOTLAND) ACT 2006**

**In connection with**

**Property at 9 Faulds Road, Montrose DD10 8PR (hereinafter referred to as “the House”)**

**Gary Stewart, 9 Faulds Road, Montrose, DD10 8PR (hereinafter referred to as “the Tenant”)**

**Esther Jane Fraser Davidson, c/o Richard Davidson, Flat 41, Bartholomew Court, Bartholomew Street, Newbury RG14 5HF (hereinafter referred to as “the Landlord”)**

**PRHP REFERENCE PRHP/RP/13/0007**

**DECISION**

The Committee decided to vary the Repairing Standard Enforcement Order dated 1 August 2013 (“the RSEO”) by removing requirement no.6 thereof, the requirement to erect a garage, and by extending the period for compliance with the remaining outstanding provisions by 42 days from the date of intimation of this decision.

**Reasons for the Decision**

The Landlord has not replaced the garage originally removed by her. The Tenant has vacated and no tenant is in occupation. The property is being marketed for sale. Even if a new tenancy were to be commenced, any new tenant would not have an expectation of a garage, there being none present at the time of the commencement of their lease. Its absence would not, of itself, constitute a breach of the repairing standard. We therefore consider that, having regard to section 25(1), variation of the order in this respect is reasonable.

However, the following requirements of the RSEO remain outstanding:

- 1 To obtain a Landlord's Gas Safety Certificate from a Gas Safe registered engineer confirming that the gas fire in the living room is in safe working order and to produce a copy of same to the Committee.
- 2 To obtain a certificate from a qualified electrician that the electrical installations in the House are in safe working order and to produce a copy of same to the Committee.
- 3 To ensure that all lights, electrical sockets, switches and cabling are in proper working order and that all electrical sockets and switches are properly affixed to the walls/ceilings as appropriate.
- 4 To replace all missing window handles.
- 5 To ensure that all windows designed to do so are capable of being opened and securely closed.

The landlord's agent, Mr Davidson, by email of 4 December 2013 has indicated that he does not intend to carry out any further works in compliance with the RSEO by reason of the Landlord having insufficient funds. The Committee have decided that having removed the requirement for replacement of the garage which is the most financially onerous obligation, the Landlord should be afforded an additional opportunity to complete the outstanding works to comply with the RSEO.

## **Decision**

The Committee, considering the terms of section 25(1) of the Act, determined that the RSEO should be varied by removing requirement no.6 thereof, the requirement to erect a garage and by extending the period for compliance with the RSEO by a further 42 days.

The decision of the Committee was unanimous.

## **Right of Appeal**

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

## J McHugh

John McHugh  
Chairperson

Date: 23 December 2013