



Notice of a decision to Vary

A Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/ EH30/70/13

Re : Property at 27 Stewart Clark Avenue, South Queensferry EH30 9QF ("the Property")

The Parties:-

Janie McWilliam, 18 Ravelston House Road, Edinburgh EH4 3LR ("the Landlord")

Adrian and Margaret Carberry, 27 Stewart Clark Avenue, South Queensferry EH30 9QF ("the Tenant")

NOTICE TO Janie McWilliam ("the Landlord")

The Private Rented Housing Committee having determined on 8 January 2014 that the **Repairing Standard Enforcement Order** relative to the Property served on 10 October 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 extending the period for compliance with the Order by 60 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.

Occupation



DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE

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

In connection with

**Property at 27 Stewart Clark Avenue, South Queensferry EH30 9QF (hereinafter
referred to as "the House")**

**Adrian Carberry, 27 Stewart Clark Avenue, South Queensferry EH30 9QF
(hereinafter referred to as "the Tenant")**

**Janie McWilliam, 18 Ravelston House Road, Edinburgh EH4 3LR (hereinafter
referred to as "the Landlord")**

PRHP REFERENCE PRHP/RP/EH30/70/13

DECISION

The Committee decided to vary the Repairing Standard Enforcement Order dated 7 October 2013 ("the Order") by extending the period for compliance with the Order by 60 days from the date of intimation of this decision.

The Committee decided not to vary the requirement that the concrete window ledges are put into good repair.

Reasons for the Decision

The Committee considered the written submissions made on behalf of the Landlord dated 30 November, 1 and 18 December 2013 and those on behalf of the Tenant dated 9 December 2013.

The Landlord has indicated that substantial progress in achieving compliance with the Order has been made. The Landlord anticipates being able to complete the remaining works (other than the concrete window ledge repairs) in early course. The Landlord alleges that the Tenant has impeded access to the House by her workmen and that this has delayed her ability to complete the works required by the Order.

The Tenant has accepted that some works have been completed. The Tenant denies having hindered access to the property by the Landlord's workmen. The Tenant does not consider that an extension of time is appropriate.

There is a very acrimonious relationship between the Landlord and the Tenant. We note however that the Landlord appears to have made substantial progress in complying with the Order and is attempting to complete further works. Having regard to: the remaining works required; the potential for further disputes between the parties regarding access; and the terms of section 25(1), we consider that the variation of the Order to provide a further 60 days for compliance is reasonable.

The Landlord also requested that paragraph no.7 of the Order, the requirement "to put into a state of good repair all damaged concrete window ledges", ought to be varied by the requirement to carry out such works being removed. This is because she alleges that the damage was caused by the Tenant and that, in any event, she has received professional advice to the effect that the state of the ledges should not affect the Tenant's enjoyment of the House, and that effecting repairs may be difficult and disruptive. No evidence of these matters has been presented.

The Committee considered the representations on this matter and, having regard to the terms of section 25(1), decided to refuse the Landlord's application on the grounds that the state of the window ledges constitutes a breach of the repairing standard which ought to be remedied. No evidence was available to the Committee to enable it to reach any conclusion that the required remedial works were unreasonably onerous or disruptive and there had never been any evidence in this case of the Tenant having damaged the window ledges.

Decision

The Committee, considering the terms of section 25(1) of the Act, determined that the Order should be varied by extending the period for compliance with the Order by a further 60 days.

The Committee decided not to vary the requirement that the concrete window ledges are put into good repair.

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 M McHugh
Chairperson

Date: 8 January 2014