



Statement of facts and reasons for Determination in terms of
SECTION 26(2) OF THE HOUSING (SCOTLAND) ACT 2006

prhp prhp Ref:EH23/103/12

Re : The flatted dwelling house known as "Culina One" within Harvieston House, by Gorebridge, Midlothian, EH23 4QA ("the House")

The Parties:-

Mr Asher Israel Katchalskiy, residing at "Culina One" within Harvieston House, by Gorebridge, Midlothian, EH23 4QA ("the Tenant")

Messrs M.C & R Jackson, residing at Salmon Hall, Workington, Cumbria CA14 1LW (represented by their agent Mr G Jack of Let Assured Ltd, Cargarrilea, Carlops, West Linton, EH23 4QA) ("the Landlord")

STATEMENT OF FACTS & REASONS.

1. On 25th October 2012 the Private Rented Housing Committee issued a decision requiring the Landlord to comply with the repairing standard enforcement order made by the Committee on 25th October 2012. The following members constituted the Committee

Paul Doyle, Legal member
Ian Mowatt, Surveyor member
John Blackwood, Housing member.

2. On 15th February 2013 the surveyor member of the Committee inspected the property. After this inspection the Committee was concerned that only limited efforts had been made by the Landlord to carry out the work specified in the repairing standard enforcement order; the repairing standard enforcement order has not been complied with.

3. On 15th February 2013, the surveyor member noted that

"At the time of the re-inspection no work appeared to have been carried out regarding any of the RSEO items listed above.

"Works in RSEO outstanding:

"All of works remained outstanding at the time of the re-inspection. The tenant indicated that no contact had been made by the landlord,

agent or contractors with a view to arranging access to carry out any of the RSEO works."

4. The Committee returned to this property on 28th March 2013, when, in the company of Mr G Jack (the Landlord's representative) the tenant invited the committee into the property. On inspection, it was obvious that item (d) in the RSEO (investigation & repair of the bathroom ceiling) had been completed. The Tenant confirmed that there was no longer a leak in the bathroom, but complained that no other works had been carried out. Mr Jack, for the Landlord, confirmed that only the works required at item (d) of the RSEO had been attended to. No attempt had been made to carry out the remaining works required.
5. A hearing took place at Middleton Village Hall at 11.45 the same day. The tenant was present. Mr Jack represented the landlord. Mr Jack admitted that the works required had not been attended to, & explained that missives had been concluded for the sale of the property, but the transaction had not yet settled. The missives provide that the purchaser of the property accepts responsibility for the works required by the RSEO.
6. The Committee find that the contract apparently transferring responsibility for the RSEO is entirely irrelevant. The Landlord admits that the works required have not been carried out. The works required affect the safety of the tenants & the safety & integrity of the larger building of which the dwelling-house forms part. Adequate time has been allowed for the works to be carried out, & no realistic effort has been made to comply with the RSEO. The Landlord's position is that the RSEO should be varied to allow a further four weeks from the future date of entry (which has not yet been defined). The Committee noted that five months have passed since the RSEO was made & intimated, and no use has been made by the Landlord of the time so far allowed to comply with the RSEO.
7. The RSEO required the Landlord
 - (a) To obtain from an NICEIC registered electrical contractor a full inspection & report on the electrical system, including lighting. Thereafter, to carry out all recommendations within the report & provide an electrical safety & compliance certificate, which should be made available to the panel prior to re-inspection.
 - (b) Facilitate an inspection by the Senior Fire Safety Officer, Lothian & Borders Fire & Rescue Service; obtain the senior fire safety officers report, carry out all & any works recommended by the Senior Fire Safety Officer; then make his report available to the panel prior to re-inspection.
 - (c) Install satisfactory mains wired smoke detectors in compliance with the current statutory regulations.
 - (d) To investigate & repair the leak to the bathroom ceiling.

8. The Landlord has not carried out the works require at (a) (b) & (c) above. The Committee considered carefully the terms of s.26(4) of the 2006 Act. On the evidence placed before us, no realistic explanation for failure to carry out works necessary to comply with the repairing standard has been advanced.

9. The Committee is concerned that no efforts have been made by the Landlord to carry out all of the work specified in the repairing standard enforcement order; the Landlord has chosen not to comply with the repairing standard enforcement order.

10. In the circumstances the Committee can only come to the unanimous conclusion that the Landlord has taken inadequate steps to comply with the repairing standard enforcement order dated 25th October 2012. The Committee will send a notice to the Local authority in terms of s.26(2) of the Housing (Scotland) Act 2006..

11. 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.

12. Where such an appeal is made the effect of the decision and the certificate are suspended until the Appeal is abandoned or finally determined. Where the Appeal is abandoned or finally determined by confirming the decision, the decision and the certificate are to be treated as having effect from the day on which the Appeal is abandoned or so determined.

Signed:.. **P Doyle**
Paul Doyle, Chairperson



**Statement of facts and reasons for Decision to grant a
Rent Relief Order
Under Section 27 of the Housing
(Scotland) Act 2006**

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Re : The flatted dwelling house known as "Culina One" within Harvieston House, by Gorebridge, Midlothian, EH23 4QA ("the House")

The Parties:-

Mr Asher Israel Katchalskiy, residing at "Culina One" within Harvieston House, by Gorebridge, Midlothian, EH23 4QA ("the Tenant")

Messrs M.C & R Jackson, residing at Salmon Hall, Workington, Cumbria CA14 1LW (represented by their agent Mr G Jack of Let Assured Ltd, Cargarrielea, Carllops, West Linton, EH23 4QA) ("the Landlord")

NOTICE TO Messrs M.C & R Jackson, residing at Salmon Hall, Workington, Cumbria CA14 1LW ("the Landlord")

STATEMENT OF FACTS & REASONS.

(1) On 25th October 2012 the Private Rented Housing Committee issued a decision requiring the Landlord to comply with the repairing standard enforcement order made by the Committee on 25th October 2012. On 15th February 2013 the surveyor member of the Committee inspected the property. After this inspection the Committee was concerned that only very limited efforts had been made by the Landlord to carry out the work specified in the repairing standard enforcement order; the repairing standard enforcement order had not been complied with.

(2) The surveyor member noted that

"At the time of the re-inspection no work appeared to have been carried out regarding any of the RSEO items listed above.

"Works in RSEO outstanding:

"All of works remained outstanding at the time of the re-inspection. The tenant indicated that no contact had been made by the landlord, agent or contractors with a view to arranging access to carry out any of the RSEO works."

(3) The Committee returned to this property on 28th March 2013, when, in the company of Mr G Jack (the Landlord's representative) the tenant invited the committee into the property. On inspection, it was obvious that item (d) in the RSEO (investigation & repair of the bathroom ceiling) had been completed. The Tenant confirmed that there was no longer a leak in the bathroom, but complained that no other works had been carried out. Mr Jack, for the Landlord, confirmed that only the

works required at item (d) of the RSEO had been attended to. No attempt had been made to carry out the remaining works required.

(4) A hearing took place at Middleton Village Hall at 11.45 the same day. The tenant was present. Mr Jack represented the landlord. Mr Jack admitted that the works required had not been attended to, & explained that missives had been concluded for the sale of the property, but the transaction had not yet settled. The missives provide that the purchaser of the property accepts responsibility for the works required by the RSEO.

(5) We find that the contract apparently transferring responsibility for the RSEO is entirely irrelevant. The Landlord admits that the works required have not been carried out. The works required affect the safety of the tenant, & the safety & integrity of the larger building of which the dwelling-house forms part. Adequate time has been allowed for the works to be carried out, & no realistic effort has been made to comply with the RSEO. The Landlord's position is that a bargain has been concluded for the sale of the property, so the RSEO should be varied to allow a further four weeks from the future date of entry (which has not yet been defined). The Committee noted that five months have passed since the RSEO was made & intimated, and no use has been made by the Landlord of the time so far allowed to comply with the RSEO.

(6) In the circumstances the committee can only come to the conclusion that the Landlord has chosen to ignore the terms of the repairing standard enforcement order dated 25th October 2012. Accordingly the Committee decides to impose a rent relief order. As the landlord has chosen not to carry out the repairs required, and the quality of the tenant's peaceful enjoyment and the safety of the property is adversely affected by the Landlord's decision, the Committee decided that significant restriction of rental is merited. The Committee therefore granted a Rent Relief Order for 90% of the monthly rental.

(7) 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.

(8) Where such an appeal is made the effect of the decision and the certificate are suspended until the Appeal is abandoned or finally determined. Where the Appeal is abandoned or finally determined by confirming the decision, the decision and the certificate are to be treated as having effect from the day on which the Appeal is abandoned or so determined.

Signed: **P Doyle**
Paul Doyle, Chairperson