



**Statement of Decision under Rule 39(3) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (contained in Schedule 1 of the Chamber Procedure Regulations 2017 (SSI No 328)) (“the Procedure Rules”) as amended in relation to a request for review under section 43(2) (b) of the Tribunals (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/RT/19/3633**

Re: Property at Flat 3F1, 13 Gillespie Crescent, Edinburgh EH10 4HT (“the Property”)

**Parties:**

The City of Edinburgh Council, 101 Niddrie Mains Road, Edinburgh EH16 4DS (“the Third Party Applicant”)

Mr. Mark Edward Fortune, whose whereabouts are unknown (“the Landlord”) as successor to Edinburgh Holiday and Party Lets Limited (SC577943), PO Box 46, 2 Corstorphine High Street, Edinburgh EH12 7ST, sometimes trading as EHPL Ltd, whose sole director was for a time Mr. Mark Edward Fortune (“the former Landlord”)

**Tribunal Members:**

Mrs Aileen Devanny (Chamber President) and Ms Carol Jones(Ordinary Member)

**DECISION**

The Tribunal refuses to review the decision issued under Section 26(1) of the Housing Scotland Act 2006 dated 6 June 2024.

**Reasons**

1. On 24 June 2024 and 28 June 2024 Edinburgh Holiday and Party Lets Limited requested a review of a decision issued by the First-tier Tribunal for Scotland Housing and Property Chamber (“the Tribunal”). The decision was made in terms of Section 26(1) of the Housing (Scotland) Act 2006.

2. The Legislation which provides for reviews at the request of a party in the Housing and Property Chamber is contained in Rule 39 of the Procedure Rules and Section 43(2)(b) of the Tribunals (Scotland) Act 2014

**Rule 39 of the Procedure Rules provides**

*39.—(1) The First-tier Tribunal may either at its own instance or at the request of a party review a decision made by it except in relation to applications listed in rule 37(3)(b) to (j), where it is necessary in the interests of justice to do so.*

*(2) An application for review under section 43(2)(b) of the Tribunals Act must—*

*(a) be made in writing and copied to the other parties;*

*(b) be made within 14 days of the date on which the decision is made or within 14 days of the date that the written reasons (if any) were sent to the parties; and*

*(c) set out why a review of the decision is necessary.*

*(3) If the First-tier Tribunal considers that the application is wholly without merit, the First-tier Tribunal must refuse the application and inform the parties of the reasons for refusal.*

**Sections 43(1) and (2) of the Tribunals (Scotland) Act 2014 provides**

*(1) Each of the First-tier Tribunal and the Upper Tribunal may review a decision made by it in any matter in a case before it.*

*(2) A decision is reviewable—*

*(a) at the Tribunal's own instance, or*

*(b) at the request of a party in the case.*

3. Rule 39(1) and Section 43(2)(b) makes clear that the only person who can seek a review of a decision is a party. The parties in relation to repairing standard applications are the landlord and a tenant or third party applicant. In the case of a third party application, the tenant can be added as a participating party on request by the tenant.

Edinburgh Holiday and Party Lets Limited stated in representations on more than one occasion that they are not the landlords of the Property. After considering evidence, the Tribunal accepted this and varied the Repairing Standard Enforcement Order (“RSEO”) naming Mr Mark Edward Fortune as the landlord. The decision which is the subject of the request for review details this decision and the reasons for it. Edinburgh Holiday and Party Lets Limited is the former landlord. This company is no longer a party and has no interest to pursue a review. The

parties in this case are Mr Mark Edward Fortune and The City of Edinburgh Council. The tenants have not sought to become participating parties.

The paperwork was served on Edinburgh Holiday and Party Lets Limited as the decision confirmed that they were not the landlord. The status of the company had changed from them being a party to not being a party. The requirements of the RSEO from the date of the decision no longer apply to them. The decision informing them of this was sent to them electronically on 11 June 2024.

4. Accordingly, the request received from Edinburgh Holiday and Party Lets Limited to review the decision is not a competent request, and it follows the review request has no merit and is refused. Within the email received on 28 June 2024 the company asks to be reinstated as respondents which is at odds with their position that the company are not the landlord of the Property. A decision made in terms of Section 26(1) of the Housing (Scotland) Act 2006 is to decide whether a landlord has complied with an RSEO. No one other than a landlord of the Property can be a respondent.

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**Mrs Aileen Devanny**

**Chamber President**

**Dated: 30 July 2024**