

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') issued under section 26 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.

Chamber Ref: FTS/HPC/RR/25/0364

Property: 8 (3F1) Parkside Street, Edinburgh EH8 9RL ("the Property")

The Parties:

Niessuh Group Limited, incorporate in Scotland (SC593207) and having their registered office at 4 Woodrush Glade, Adambrae, Livingston, West Lothian EH54 9JY ("the Landlords")

Mr John Menzies, 8 (3F1) Parkside Street, Edinburgh EH8 9RL ("the Tenant")

Tribunal members:

George Clark (Legal Member/Chair) and Mr David Godfrey (Ordinary/surveyor Member).

Background

The tenancy is a regulated tenancy in terms of the Rent (Scotland) Act 1984. The current rent is £6,000 per annum (£500 per month). The Landlords applied for the rent to be increased to £10,200 per annum (£850 per month). The Rent Officer registered a rent of £6,950 per annum with effect from 13 January 2025. The Landlords referred the determination to the First-tier Tribunal on 30 January 2025.

The Inspection.

The Tribunal Members inspected the Property on the morning of 24 July 2025. The Tenant was present at the inspection. The Landlords were represented by Mr Omar Hussein, one of their Directors.

The Property is a third (top) floor flat entered by a common passage and stair in a traditional sandstone tenement under a pitched roof. The tenement lies in a predominantly residential street, close to Edinburgh University and is well placed for bus links and local amenities. The accommodation comprises a living room, double bedroom, kitchen and bathroom. The windows of the Property are the original timber sash and casement fittings, and there is no central heating, with hot water provided by an immersion heater. The wiring is also dated, but the system is fitted with residual current devices (RCDs). The internal floor area is approximately 42 square metres. The kitchen units and fittings and the bathroom fittings are dated. The white goods, cooker and floorcoverings were all provided by the Tenant. No services are provided by the Landlords. There is a shared drying green to the rear and a permit can be obtained for on-street parking.

The Hearing

A Hearing took place on the afternoon of 24 July 2025, following the Inspection. The Tenant was unable on health grounds to attend, but was represented by his son, John Menzies and his daughter, Margo Haylett. The Landlords were represented by Mr Omar Hussein.

4. Decision

The Tribunal had the following documents before it:-

- (i) a copy of form RR1, the Landlords' application for registration of the rent.
- (ii) a copy of the Rent Officer's determination.
- (iii) a copy of the Landlords' email of 30 January 2025 objecting to the rent registered by the Rent Officer.
- (iv) details of properties and rents regarded by the Landlords as comparable, namely:
 - East Parkside, Newington EH16 – advertised at £1,250/month (£15,000pa)
 - Parkside Street EH8 – advertised at £895/month (£10,740pa)
 - St Leonards Hill EH8 – advertised at £1,100/month (£13,200pa)
 - Parkside Street EH8 – advertised at £2,000/month (£24,000pa)

The Tribunal considered these documents and evidence of registered rents for two-roomed properties that it had obtained from its own enquiries, namely:

19 Waverley Park EH8 - £6,250pa

Dalry Road EH11 - £7,800pa

Watson Crescent EH11 - £3,775pa (Let by a Housing Association "HA")

Orwell Terrace EH11 - £4,566pa registered 21 July 2025 (let by HA)

Caledonian Place EH11 - £4,566pa registered 16 July 2025 (Let by HA)

Drummond Street EH8 - £6,790 (let by HA)

High School Yards EH8 - £5,357pa registered 8 July 2025 (let by HA)

The Tribunal Members were mindful of the terms of section 48(1) of The Rent (Scotland) Act 1984, which requires the Tribunal 'to have regard to all of the circumstances (other than personal circumstances) and in particular to apply their knowledge and experience of current rents of comparable property in the area, as well as having regard to the age, character and locality of the dwelling house in question and to its state of repair and, if any furniture is provided for use under the tenancy, and to the quantity, quality and condition of the furniture'. Also, Section 48(2) requires them to 'assume that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses which are available to let on such terms.'

The Tribunal recognised that the three methods of assessing the rent in Scotland are (1) determining the fair rent by reference to comparable registered rents in the area. (2) determining the fair rent by reference to market rents of comparable properties allowing for appropriate deductions for scarcity and (3) determining the fair rent by reference to the anticipated annual return based on the capital value of the property. They acknowledged that none of these methods is the primary method. The task of determining a fair rent is a composite task which takes account of these three methods. The appropriate method depends on the facts and circumstances of each case. The Tribunal also gave consideration to the observations of the Lord President in *Western Heritable Investment Co Ltd v Hunter* (2004) and also the case of *Wright v Elderpark Housing Association* (2017) which requires the Tribunal to proceed on the best available evidence and use the other evidence as a cross check, where possible.

Registered Rents

The Tribunal considered the evidence of registered rents in the Fair Rent Register.

The Tribunal determined that a comparable rent for the Property using the evidence of registered fair rents, reasonably adjusted to reflect the size and condition of the property, is £6,950 per annum.

Market Rents

The Tribunal also considered the evidence of market rents.

The evidence of annual rents provided for properties advertised for rental in the EH8 area prior to the date of the hearing range from £10,740 to £24,000 per annum.

The Tribunal considered the open market rent to be £12,250 per annum; deducting the cost of improvements estimated at an annualised figure of £700, a comparable open market rental would be £11,550.

As already noted, when the Tribunal fixes a fair rent, it must do so on an assumption that the number of persons seeking to become tenants of similar properties in the locality of the Property is not substantially higher than the number of similar dwelling houses which are available for lease. The Tribunal was aware that City of Edinburgh Council has declared a Housing Emergency and, from anecdotal evidence, that there is a huge demand for flats when they come on the market. The Landlords had stated that there are always properties in EH8 advertised for let, but it appeared to the Tribunal that current demand considerably exceeds supply in the area and that scarcity is an element which affects the rental levels. The view of the Tribunal was that the open market rent for the present Property in good condition would be £11,550 per annum and that the scarcity deduction, could reasonably said to be 40% reducing the rent for the present Property to £6,930 per annum. The Tribunal did not, therefore, feel that the figure set by the Rent Officer (£6,950 per annum) should be disturbed.

Return on the capital valuation of the Property

The Tribunal considered whether it was appropriate to use a return on the capital valuation of the Property. The Parties had not provided any evidence of capital valuations of the Property, and the Tribunal was mindful that the capital valuation method has been described as notoriously unreliable 'normally to be used only as a last resort' (Western Heritable Investment Co Ltd v Husband 1983 SC (HL) 60, 73).

Given the evidence of comparable fair rents and market rents and the absence of evidence of capital valuations the Tribunal determined that it was appropriate to proceed to assess the fair rent of the Property without using the capital valuation method.

The Tribunal noted that the comparisons provided by the Landlords were asked-for market rents, rather than rents achieved, and were not registered fair rents and that the Landlords had taken no account of scarcity.

The Tribunal is mindful that fixing the rent is a composite task and consequently after consideration of all these factors the Tribunal decided that a fair rent for the Property is £6,950 per annum (£579.17 per month). In arriving at this figure, the Tribunal took into account the effect of scarcity and the present condition of the Property.

In reaching this decision the Tribunal have had regard to all the considerations required to be taken into account in terms of Section 48 of the Rent (Scotland) Act 1984.

This decision takes effect from 13 January 2025.

G Clark

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Chairperson

20 August 2025