

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)** (Hereinafter referred to as “the Tribunal”)

Under Section 28 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

**Case Reference Number: FTS/HPC/RN/25/1832**

**Re: 10/6 Tower Place, Edinburgh EH6 7BZ (“the subject property”)**

**Mr Emmanuel Oluwaseun Olasoji (Applicant and Tenant)**

**Shajna Rahman (Landlord and Respondent)**

**DJ Alexander Lettings Ltd (Respondent’s agent)**

**Tribunal Members – Alice Stobart (Legal Member) and Robert Buchan (Ordinary (Surveyor) Member)**

**Decision:**

The Tribunal determines that the rent to be payable by the Applicant in respect of the subject property is £1571.75 per calendar month and that rent shall apply and take effect from 28 February 2026, taking into account the provisions of section 29(2) of the Private Housing (Tenancies) Scotland Act 2016 (‘the 2016 Act’). The decision of the Tribunal is unanimous.

## **Background:**

1. An application to the Tribunal by Mr Emmanuel Oluwaseun Olasoji was made to the First-tier Tribunal on or between 28 April 2025 and 15 August 2025 ('the application') and was accepted by the Tribunal on 18 August 2025. The Landlord is Shajna Rahman and the Respondent's agent is DJ Alexander Lettings Ltd. The tenancy is a private residential tenancy under the 2016 Act.
2. On 1 April 2025, the Respondent's agent served a notice on the tenant under Section 22(1) of the 2016 Act, indicating that the landlord intended to increase the rent on the property from £1390.09 per calendar month to £1487.39 with effect from 28 July 2025. The Applicant objected to the increase by writing to D J Alexander Lettings Ltd on 18 April 2025. The applicant did not refer the matter to the Rent Officer at that time.
3. The proposed rent increase was not implemented and the Respondent's agent served a second notice on the tenant under Section 22(1) of the 2016 Act on 11 June 2025. The second notice stated that the landlord intended to increase the rent on the property from £1309.09 per calendar month to £1571.75 per calendar month with effect from 28 September 2025.
4. The Applicant timeously objected to the 11 June 2025 proposed increase by referring the proposed increase to the Rent Service Scotland. By determination dated 13 August 2025 the Rent Officer fixed the rent at £1600 per calendar month. Reference was made by the Rent Officer to two comparable properties nearby, in Halmyre Street EH6 and Timber Bush EH6. The monthly rent for both of these properties was £1600 per calendar month.
5. The Applicant appealed the Rent Officer's decision to the First-tier Tribunal. The Applicant referred the Tribunal to two comparable properties in Portland Terrace, EH6 6JZ and Great Junction Street, EH6 both listed at £1500 per calendar month. The Respondent chose not to refer the Tribunal to any comparable properties but in an email dated 24 December 2025 to the Tribunal, advised that they considered the rent determination by the Rent Officer to be 'appropriate and reflective of the current rent'. In oral submissions during the hearing Mr Brash, the Respondent's agent accepted the Rent Officer's valuation of £1600 pcm.
6. Both parties were notified that an inspection and hearing would take place, and were invited to attend both the inspection and the hearing. The inspection took place at the property on 21 January 2026 at 10.00am. The hearing took place on the same day at 11.45 am. Mr and Mrs Olasoji were present at the hearing. Mr David Brash, DJ Alexander Lettings Ltd was present on behalf of the respondent. All were present during the inspection.

## **Findings in Fact:**

7. The property is a first floor flat in a seven storey residential building thought to be about 23 years old. The accommodation comprises a living room, kitchen, hallway, 3 double bedrooms, 2 bathrooms and balcony. The property is

unfurnished and has a gross internal floor area of 89 square metres. The flat has double glazing, gas central heating, a balcony and designated parking space.

8. The property is located in a cul-de-sac of a mixed residential and industrial area of the Shore, Leith. The area has an extensive range of amenities, shops and restaurants. It also has good transport links with the Edinburgh Tram nearby and frequent buses into Edinburgh city centre.
9. Internally the property is in a reasonable condition but the Applicant has had issues with the extractor fans in the bathroom and shower room with some associated damp and mould. These issues have now been resolved but took some time for the matter to be dealt with.
10. The comparisons used and viewed by the Tribunal are shown in the table below. The floor areas shown are taken from the Register of Energy Performance Certificates where the address of the property is known:

<b>Subject property:</b> 3 bed 2 bath flat Unfurnished, 89 sq.m. Double glazed, Gas C/H, Parking
<b>Flat 7, 8 Maritime Street, EH6 6SB:</b> 3 bed 2 bath converted flat, furnished, 112 sq.m. Single glazing, Gas heating, parking, balcony and lift. Listed 27/11/2025 for £1595 per month
<b>206T Portland Gardens, EH6 6NJ:</b> 3 bed 2 bath modern garden flat, furnished, 108 sq.m Double glazing, Gas heating, parking. Listed 7/11/2025 for £1600 per month.
<b>Flat 20, 1 Chapel Lane, EH6 6ST:</b> 3 bed HMO flat, furnished, 79 sq.m. Single glazing, Elec heating, Listed 25/11/2025 for £1500 per month
<b>Tenant supplied comparisons</b>
<b>1F2, 2 Portland Terrace, EH6 6JZ:</b> Period stone built 3 bed flat, furnished, 86 sq.m. Single glazed Gas heating, Listed July 2025 for £1500 per month
<b>Great Junction Street EH6:</b> Stone built converted flat, 3 beds, 2 baths, part furnished Electric heating, parking. Listed July 2025 for £1500 per month.

## The Hearing:

11. Following the inspection, the Tribunal held a hearing at George House, 126 George Street, Edinburgh EH2 4HH. Mr and Mrs Olasoji were present as was Mr Brash from DJ Alexander Lettings Ltd.
12. During the hearing the Tribunal explained that it needed to be sure that it had jurisdiction to hear the case as from the papers it appeared that the Applicant had failed to refer the first notice of increase dated 1 April 2025 to the Rent Officer in the required 21 days. The Applicant explained that he had received a second notice of increase of rent from the Landlord's agents on 11 June 2025. The Applicant showed the second notice to Mr Brash who confirmed that a second notice had been sent and that the referral to the Rent Officer was then made. The Tribunal decided that the Applicant had referred the second notice of increase to the Rent Officer within the 21 day period and as such the Tribunal had jurisdiction to hear the matter.
13. Mr Olasoji explained that the Rent Officer, in his view, had failed to take into account the fact that his flat was unfurnished and that the extractor fans were not fixed quickly enough thereby allowing mould to appear in the bathrooms. His view was that the Rent Officer's comparisons were not comparable especially Halmyre Street which is a period property with no lift and no parking. He accepted that Timber Bush was more likely to be comparable but submitted that Timber Bush was unlikely to have been unfurnished and would not have had mould and issues with the extractor fan. His view was that the Rent Officer had not taken these matters into account despite having inspected the subject property.
14. Prior to the inspection and hearing, the Tribunal had provided the parties with listings of 3 recent comparable lets in the area together with Private Sector Rent Statistics prepared by the Scottish Government covering the period from 2010 to 2025, and the quarterly report by Citylets which has up-to-date detailed private sector rent statistics and market comments by letting agents. The parties were invited to comment on these submissions. Mr Olasoji submitted that the Chapel Lane property may have been similar in age to the subject property but was not unfurnished and may not have had the same issues with the extractor fan and mould. Mr Olasoji explained that the Maritime Street and Portland Gardens flats were much larger than the subject property and therefore were not suitable comparable properties. He accepted that the Portland Terrace property he had provided was a period property with single glazing, furnished and had no lift. The Great Junction Street property was an old property but modernised inside.
15. Mr Brash for the Respondent submitted that it was hard to compare older, stone built properties with modern buildings as they do not have the same features namely lifts, parking and double glazing. He submitted that the newer properties were more comparable with the subject property. He believed that whether the flat was furnished or unfurnished made no difference to the rent achieved as many flats were only partly furnished and he would not reduce a rent because a property was unfurnished. His view was that the demand for

properties in the EH6 area was strong and that the Rent officer was correct to value the property at £1600. He explained that the Landlord had been looking to receive £1571.15 which was close in value to the Rent Officer.

16. The Tribunal asked both parties about the City Lets report which stated that there was an average of £1956 per calendar month for EH7 properties. Mr Olasoji had no view as it was an average. Mr Brash did not think that averages were helpful given the wide range of properties that could be encompassed.

### **The Law:**

17. Section 29 of the 2016 Act provides that, where an appeal is made to the Tribunal under Section 28(1) of the 2016 Act, the Tribunal must make an order stating that from the effective date the rent payable under the tenancy is the rent determined by the Tribunal in accordance with Section 32 of the Act.
18. Under Section 29(2) of the Act, the effective date in the present application is the first payment date falling on or after the day on which the Tribunal makes its Order.
19. Section 32 of the Act states that the determination is to be made on the basis that the property in question would be let by a willing landlord to a hypothetical willing tenant under a new tenancy which would: (a) be a Private Residential Tenancy, (b) begin on the date on which the rent would have been increased in accordance with the rent increase notice, had a referral to a rent officer not been made, and (c) have the same terms as the tenancy to which the referral or (as the case may be) appeal relates.
20. The provisions set out in section 31A of the 2016 Act were repealed on 30 March 2025. This was before the rent increase notice was served on the Applicant. Section 31A does not therefore apply in this case.

### **Reasons for decision:**

21. The Tribunal is aware that the two relevant methods of assessing the open market rent in Scotland are: (a) determining the open market rent by reference to market rents of comparable properties or (b) determining the open market rent by reference to the anticipated annual return based on the capital value of the property.
22. The appropriate method depends on the facts and circumstances of each case. The Tribunal also considered the observations of the Lord President in *Western Heritable Investment Co Ltd v Hunter* [2004] SC 635 and also the case of *Wright v Elderpark Housing Association* [2017] CSIH 54, which requires the Tribunal to proceed on the best available evidence and use the other evidence as a cross check, where possible.
23. There is no public register of rentals in Scotland and valuation is largely by evidence of advertised rentals in the area and the application of the

knowledge and experience of the Tribunal Members. The rent officer only provides the briefest of detail of comparisons used in their assessment with no specific address, style, floor area or rationale as to how their valuation is arrived at.

24. The assessment by the Tribunal is necessarily based on taking what evidence is available and adjusting for the differences in age, style, accommodation, floor area and any other relevant factors, such as location, condition, garden, garage, amenity etc, to arrive at a valuation. The Tribunal carefully considered a variety of properties which were available for let in the area, the comparable properties provided by the Applicant, the properties provided by the Rent Officer and the oral submissions made by the Applicant and Mr Brash on behalf of the Respondent.
25. The calculation of an appropriate return based on the capital value of the property did not appear appropriate to the Tribunal given (1) the imprecision of such a calculation which invariably requires the use of contentious variables (in particular the rate of return) compared to the relative ease of using comparable rents, (2) the readily available evidence of open market let property and (3) neither party led any evidence on this annual return basis of value.
26. In advance of the hearing, the Tribunal members visited the locations (but not the interiors) of five of the proposed comparable properties namely Timber Bush, Chapel Lane, Maritime Street, Great Junction Street and Portland Gardens. The Tribunal considered the modern properties to be the closest comparables in terms of size, type, age and location. During the hearing it was agreed amongst the parties that Halmyre Street and Portland Terrace were both period properties. The Tribunal decided that it was inappropriate to compare a period tenement property with a modern flat with balcony, lift and parking especially given the ready availability of more directly comparable flats.
27. The Tribunal considered the Applicant's submission that the difficulties he had had in getting the Respondent's agent to repair the extractor fans and consequent mould should have a bearing on the market rent. The Tribunal noted during the inspection that the extractor fans and associated mould had been dealt with and that was confirmed by the Applicant at the hearing. Whilst acknowledging that this clearly had an impact on the Applicant and his family, the fact that the matters have been resolved means that they cannot be taken into account in the rental valuation other than a marginal adjustment for residual mould noted on some windows and bathroom fittings.
28. The Tribunal decided that the most comparable properties were modern 3 bedroom flats which adjusting for the differences in style, floor area, features and parking produced a band of value between £1500-£1600 per calendar month. The Tribunal agreed with the view of Mr Brash that the whether a flat was furnished or unfurnished had little bearing on the price of the rent given the demand for flats in the area and the fact that some flats were offered

furnished, some part furnished and some unfurnished. The fact that the Rent Officer does not distinguish between furnished and unfurnished in their determinations suggest that they do not consider furnishings to have any discernible effect on value and the Tribunals' own knowledge and experience of the market supports this.

29. The Tribunal noted that the Rent Officer did not provide floor areas but found that the Timber Bush property (£1600) was near to the subject property and was similar in age. The Tribunal found that both Maritime Street (£1595 pcm) and Portland Gardens (£1600 pcm) had larger floor areas than the subject property. The Tribunal noted that the Respondent's letting agent had valued the subject property at £1571.15 despite now arguing that the property should be valued at £1600 in line with the Rent Officer valuation. The comparable property supplied by the Applicant at Portland Terrace was an older property with no lift and no parking. The Great Junction Street property was on a main road and stone built. It had no lift but had parking. Both those properties were valued at £1500 pcm but in the Tribunal's view were not as directly comparable as the more modern properties with lift, balcony and parking. The Tribunal noted that the Chapel Lane property did not have parking or balconies and was smaller than the subject property. It was offered at £1500 pcm.

30. In reaching its decision, the Tribunal had regard to all the circumstances required to be taken into account in terms of Section 32 of the 2016 Act. Having weighed all of the available evidence, the Tribunal considered that given the evidence before it, £1571.15 per calendar month was an appropriate open market rent for the property. It therefore determined to fix the open market rent for the property at that level.

31. This decision takes effect from 28 February 2026, taking into account the provisions of section 29 (2) of the Act.

#### **Rights of review and appeal:**

32. In terms of section 30 of the 2016 Act and rule 37 (3) (j) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 ("the Tribunal rules"), a decision of the Tribunal to make an order under section 29(1) of the 2016 Act is final and cannot be either appealed or reviewed.

33. The First-tier Tribunal may, however, review an order made under section 29(1) either (a) at its own instance, or (b) at the request of the landlord or the tenant under the tenancy to which the order relates.

## Alice Stobart

Legal Member: Alice Stobart

9 February 2026