Housing and Property Chamber
First-tier Tribunal for Scotland

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under The Rent (Scotland) Act 1984
("The Act")

Chamber Ref: FTS/HPC/RR/25/4014

Re: Property at 2f2, 6 Balcarres Street, Morningside, Edinburgh, EH10 5JB
("the Property")

Parties:

Castle Rock Edinvar Housing Association, 2 Hay Avenue, Edinburgh, EH16 4 RW
("the Landlord")

Ms Jennifer Mary Staples, 2f2, 6 Balcarres Street, Morningside, Edinburgh, EH10 5JB
("the Tenant")

Tribunal Members:

Andrew McLaughlin (Legal Member) and David Godfrey (Ordinary Member)

Background

[1] This is a reference to the Tribunal in terms of Section 48 and Schedule 5 of the Rent (Scotland) Act 1984.

[2] On 27 May 2025, the Landlord applied for a fair rent of £ 4912.44 per annum to be registered for the Property. On 18 September 2025, the Rent Officer determined that the fair rent for the Property should be £4639.08 per annum. The previous rent was £4217.35 per annum The Tenant objected to the registered rent and the application was referred to the Tribunal for a determination.

[3] An Inspection and Hearing were scheduled for 17 August 2026 at 10 am and 11.30am in Edinburgh Tribunals Centre. The parties were notified and advised that access would be required for the inspection.

The Inspection and Hearing

[4] The Tribunal Members attended at the property at the stated time and were granted access by the Tenant and her British Sign Language Interpreters. The Landlord was not present. The Tribunal conducted an inspection of the Property. The Tribunal thereafter adjourned to conduct the Hearing at the appointed time.

[5] The Tenant was again assisted by her interpreters. The Landlord was again not present. The Tribunal invited the Tenant to explain what she thought the fair rent should be and why. The Tenant was invited to provide details of any comparable Properties she thought might be relevant.

[6] The Tenant however could provide no such information and it seemed that she was simply just unhappy with the increase proposed by the Landlord but actually not that unhappy with the sum assessed by the Rent Officer. The rent currently paid equates to £386.00 a month and the proposed increase by the Landlord would take the rent up to £409.00 a month. The Tenant did refer to some cosmetic issues with the Property which she wished the Landlord to address. These included issues with some cupboards and the actual bath in the Property. None of these seemed particularly relevant to the specific matter before the Tribunal today.

[7] The Property is a second floor flat with one bedroom, a sitting room a kitchen diner and a bathroom. The Property has an internal area of 63 meters squared. The Tribunal compared the Property with other comparable properties on the register of fair rents.

1. *6 Balcarres Street (GF2) Registered 12/09/2025 Rent: £4902.24*

[8] *6 Balcarres Street (GF2) is* obviously in the same building as the Property and is therefore attractive as a comparable. because it is directly below the Property and was thought to be largely identical to the Property in question. It had an internal area of 52 meters squared and was therefore smaller. The Tenant accepted that the downstairs Property was largely identical to hers albeit it was actually smaller. She did however think that it had recently had the Bathroom refitted.

2. *16 Cathcart Place (3F1) EH11 2HE Registered 10/10/2025 Rent £5606.52*

[9] This dwelling is also a tenement flat and has an area of 57 meters squared and a fair rent set at £5606.52. It has an extra room although the floor area is smaller.

[10] The Tribunal then compared the Property with other comparable properties on the open market and adjusted for scarcity. The Tribunal considered a 1 bedroom property advertised for let by Umega Lettings on Balcarres Street for £1,150.00 per month (£13,8000 per annum).

[11] The Tribunal also considered another one-bedroom property advertised for let again on Balcarres Street on Right Move for £995.00 per month. The Tribunal also noted

that the reliable *City Lets* report recorded that private rents in Edinburgh had increased 22 per cent in the last three years. The Tribunal therefore considered that it had a sufficient understanding of the open market rental figures for comparable properties in the area.

[12] The Tribunal was 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 properties in the area as well as having regard to the age, character and locality of the dwelling house in question and to the state of repair and if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture. The Tribunal are also required to consider, in terms of section 48(2) of the 1984 Act that "*the number of persons seeking to become the tenant of similar dwellinghouses in the locality under terms (other than those related to rent) of the regulated tenancy is not substantially greater than the number of dwellinghouses in the locality which are available for letting on such terms*". This is often referred to as "*scarcity*".

[13] Neither party provided any evidence on the question of scarcity. The Tribunal considered it reasonable to consider the City of Edinburgh when assessing the question of scarcity. The Tribunal considered that time taken to let properties and rent increases are factors that contribute to determining if scarcity exists. The City lets report for Q1 2026 states that the average rent for a one bedroomed flat in Edinburgh is £1,057 with an average increase in rent of 0.2% over the last year and 39.4% over the last five years. These figures show that average rents in Edinburgh are considerably higher than the Scottish average and the average time to let (27 days) and the number of properties let within one week (14%) and one month (62%) respectively mirror the Scottish average. In November 2023, the City of Edinburgh Council declared a housing emergency in response to significant pressures on the city's housing market, demand for homelessness and housing costs.

- There are currently 20,912 homes owned by CEC and 21,451 RSL homes in the city.
- There are currently over 31,000 applicants registered on EdIndex (Social Housing waiting list)
- (source The City of Edinburgh Council)

[14] The Tribunal determined that there is a strong demand for private rented accommodation in Edinburgh. The statistics confirm that the number of people seeking to become tenants of such properties in Edinburgh is higher than the number of houses available and that the demand is substantially higher than the supply and having regard to all the circumstances, consider that there is scarcity amounting to 50%.

[15] The Tribunal noted that there are three accepted methods in Scotland for determining rent; -

(a) Determining a rent by having regard to registered rents of comparable houses in the area.
(b) Determining a rent by comparing market rents within the area and then discounting for any scarcity element and making any appropriate disregards as required by Section 48(3) of the 1984 Act.
(c) Calculating the appropriate return based on the capital value of the property taking account of any element of scarcity. None of these methods is regarded as being the primary method and the method to be chosen by the Tribunal will depend on the available evidence and the facts and circumstances of each case. The Tribunal had regard to the observations of the Lord President in the case of Western Heritable Investment Co Ltd v Hunter and also Wright v Elderpark Housing Association Ltd 2017 which require the Tribunal to proceed on the best available evidence and use other evidence as a cross check, where possible.

[16] The Tribunal was not provided with any evidence of the capital value of the Property. The Tribunal also noted 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 the capital value the Tribunal determined that it was appropriate to assess the fair rent of the property without using the capital valuation method.

Decision

[17] The Tribunal considered that it would be completely unreasonable for the Property to have a lower fair rent that the Property directly below which was actually smaller. The fair rent proposed by the Landlord was clearly fair and reasonable in all the circumstances. The Tribunal therefore set the rent at the sum of £4,912.44 effective from 29 September 2026. This is consistent with fair rents for comparable properties in the area. There were no coherent reasons set out by the Tenant that gave the Tribunal reason to doubt that approach.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

A McLaughlin

_____ **15 October 2026**

Legal Member/Chair **Date**