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 Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/24/4702

Re: Property at Nethermill House, Kirkbean, Dumfries, DG2 8BJ ("the Property")

Parties:

Arbigland Estate Trustees, Estate Office, House of the Shore, Kirkbean, Dumfries, DG2 8BQ ("the Applicant")

Mrs Victoria Blakey, Mr Daniel Blakey, Nethermill House, Kirkbean, Dumfries, DG2 8BJ ("the Respondent")

Tribunal Members:

Graham Harding (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Application should be refused.

Background

1. By application dated 10 October 2024 the Applicant's representatives, Brazenall & Orr, solicitors, Dumfries, applied to the Tribunal for an order for payment in respect of charges for electricity arising from the Respondents' tenancy of the property. The Applicant's representatives submitted a copy of a tenancy agreement and copy invoices together with other documents in support of the application.

2. By Notice of Acceptance dated 7 November 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion ("CMD") was assigned.

3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 26 February 2025.

4. By email dated 10 March 2025 the Respondent's representative, Mr Alasdair Bryce of Pollock and McLean, Solicitors, Dumfries submitted written representations to the Tribunal.

5. A Case Management Discussion ("CMD") was held by teleconference on 24 April 2025. Mr James Blackett from the Applicants was in attendance and was represented by Mr Andrew Maxwell from the Applicant's representatives. The Respondents did not attend but were represented by Mr Alasdair Bryce from the Respondents' representatives. After hearing from the parties' representatives, the Tribunal determined that the issues in dispute were whether the meter installed by the Applicants accurately recorded the electricity supplied to the property and if so, was the amount charged to the Respondents for electricity usage at the property correctly calculated. The application was continued to a video link hearing.

6. By email dated 11 September 2025 the Applicant's representative submitted an application to increase the sum claimed to £16767.48.

7. By emails dated 2 and 3 October 2025 the Respondent's representative submitted an agreed bundle of documents including an Inventory of Productions and Note of Uncontroversial Evidence.

The Hearing

8. A video link hearing was held on 7 October 2025. Mr James Blackett was in attendance from the Applicant and was represented by Mr Andrew Maxwell from the Applicant's representatives. The First Respondent attended and the Respondents were represented by Mr Alasdair Bryce from the Respondents' representatives.

9. By way of preliminary matters, the Tribunal established that Mr Bryce had no objection to the Application to amend the sum claimed to £16767.48 and the Tribunal allowed the application. The Tribunal noted that no List of Witnesses had been submitted to the Tribunal by the Applicant's representatives but that there were two witnesses for the Applicant present. Mr Maxwell confirmed that this had been an oversight and that Mr Hatfield would be speaking to the installation of the meter at the property by Lotus Electrical Services and Mrs Muldowney would be speaking to the invoices issued for electricity used. Mr Bryce advised the Tribunal he had no objection to the witnesses giving their evidence.

The Evidence of Mr Edward Wallace Hatfield

10. Mr Hatfield confirmed that he was a director of Lotus Electrical services.

11. He confirmed that the contents of his email of 24 June 2025 (Production no. 70 in the bundle) accurately set out his position. He confirmed the meter ("the Lotus meter") that was installed only related to the electricity supplied to Nethermill House and that when installed the reading was at zero. Mr Hatfield

said the technician who installed the Lotus meter had taken a photograph to show this (Production No 72 in the bundle). Mr Hatfield also confirmed that the meter reading was in Kilowatt hours and was the same as would be recorded by the British Gas main meter.

12. In response to a question from Mr Bryce Mr Hatfield explained that it would not have been possible for his company to have installed a totally separate power supply to the property and that this would require to be undertaken by the Distribution Network Operator (DNO) and the energy supplier would provide a new meter. Mr Hatfield also said he had not been privy to any correspondence between the Applicant and the Respondent. He also said he was unable to comment on different tariffs that might be supplied to the property. Mr Hatfield did say that a new box enclosure was due to be fitted at the property in early 2025 but this was fitted after the Respondents had left the property. Mr Hatfield in response to a further query from Mr Bryce again confirmed that the supply measured by the meter installed by Lotus Electrical Services was only for Nethermill House and that other outbuildings had a separate supply.

13. In response to a query from the Tribunal Mr Hatfield said that the Lotus meter that was installed was certified by the manufacturer as being accurate and could be relied on. In response to a further query Mr Hatfield confirmed the meter only measured the usage and nothing more.

The Evidence of Mrs Maureen Muldowney

14. Mrs Muldowney said that she was employed by Farming Partners Arbigland Ltd ("FPAL") as its Office Manager. Mrs Muldowney confirmed that the electrical supply to Nethermill House had also provided electricity to the adjoining property run by FPAL. Mrs Muldowney went on to say that bills for electricity supplied to the properties were sent by British Gas to FPAL and that she then sent the bills to the Applicant. In response to a further query Mrs Muldowney confirmed she was aware that a meter had been installed at the property on 26 February 2024 and also confirmed that she had subsequently taken readings from it.

15. Mrs Muldowney was referred to production No. 89 and initially said that she had taken the reading but then said that Jamie (Mr Blackett) had taken the reading and sent her a photo of it. Mrs Muldowney was then referred to Production No 87 and asked to explain how the figure of £10458.24 had been calculated. Mrs Muldowney said she had taken a three month period after the meter had been installed and calculated that the Respondents were using 59.22 % of the total electricity usage and applied that to the previous years' total usage and then took away what the Respondents had paid to arrive at the final figure. Mrs Muldowney also said that the farmyard used zero electricity for much of the year as it was only used for calf rearing and not used from June to January.

16. Mrs Muldowney was referred to Production No. 91 an invoice to Arbigland Farms dated 22 July 2024. Mrs Muldowney said it looked as though Mr Blackett had taken the meter reading and that it covered the period from 5 July 2024 to 22 July 2024 and had taken account of the £190.00 paid by the Respondents.

Mrs Muldowney confirmed there was an accounting arrangement between FPAL and Arbigland Farms that dealt with these payments. Mrs Muldowney was also referred to Production 92 and confirmed that the readings were accurate as were the readings in Production 93 and 94 and that they were also accurate.

17. In response to a query from Mr Bryce, Mrs Muldowney confirmed there was a lease between FPAL and Arbigland Farms that had commenced approximately five years earlier in about 2020. Mrs Muldowney said in response to a further query that FPAL had only taken over the Electricity account in about 2023. Mrs Muldowney also said she did not know exactly what had brought about the change.

18. Mr Bryce referred Mrs Muldowney to Production No 26 a British Gas Invoice dated 4 August 2023 covering the period from 28 May 2023 to 22 June 2023. Mrs Muldowney confirmed the invoice was addressed to her at FPAL at its office address. Mrs Muldowney said that there had been a large increase in usage which had gone from a few hundred pounds to thousands of pounds and that she had not known why. Mrs Muldowney said that the meter had been checked and also asked if FPAL usage could be separated from other usage as she was aware the meter covered the house also. Mrs Muldowney said that Mr Jamie Blackett had investigated the issues and used Lotus Services to test the meter.

19. Mr Bryce asked Mrs Muldowney to explain how she arrived at the figure of 59.22% for the Respondents usage of electricity. Mrs Muldowney said that she had taken the reading from the meter installed at the property on 26 May 2024 and the meter reading at the farm on the same day compared to the readings on 26 February 2024 and was able to calculate the percentage of electricity used by the Respondents as 59.22%. Mrs Muldowney confirmed she only had her own readings of the meters to provide the calculations.

20. Mr Bryce referred Mrs Muldowney to the invoice for the period from 22 /5/24 to 4/7/24 (Production No 89) covering a period of 43 days and said that this showed a usage of 53 Kwh a day compared to the previous usage of 161Kwh per day and asked if Mrs Muldowney could account for that. Mrs Muldowney said that the earlier invoice was for a period covering more winter months.

21. Mr Bryce asked Mrs Muldowney if she knew much about the property. Mrs Muldowney said she knew it was a large building. In response to a further query Mrs Muldowney said she could not comment on what would be the anticipated cost of electricity for the property and that she could not say if the sum claimed of nearly £17000.00 was reasonable or not as she did not know how the Respondents chose to use their electricity.

22. Mrs Muldowney in response to a query as to whether the property now had its own electricity supply said that there was no longer a deduction for the property and that had changed on 23 April 2025.

23. Mrs Muldowney confirmed the Lotus meter was installed in a shed on a courtyard at the property that could be accessed with a PIN number and that the Respondents did not have access to the shed.

The Evidence of James William Beecham Blackett

24. Mr Blackett said he managed the Arbigland Estate on behalf of its Trustees and that this included the property. Mr Blackett confirmed the Respondents' tenancy commenced on 19 September 2019 and that prior to that date the property had been occupied by his parents. Mr Blackett said that the condition in the lease that the Respondents would pay £85.00 per month for electricity with reference to the installation of a private meter had come about as that was the amount Mr Blackett's parents had paid for their electricity. Mr Blackett confirmed the amount paid by the Respondents was adjusted upwards by agreement although he thought the estate was still subsidising the Respondents use of electricity but were content with the amount agreed.

25. Mr Blackett said that the Lotus Electrical Services had installed the new meter at the property as it had become apparent that the Respondents were not paying enough for their electricity. Mr Blackett said that the Respondents did not believe they were using too much electricity and so Lotus Electrical Services had been instructed to test the Scottish Gas/Scottish Power Network meter and it was reading correctly.

26. Mr Blackett confirmed he had taken a photo of the first meter reading on the Lotus meter on 22 May 2024. He said he was anxious that FPAL were not out of pocket and was trying to be fair to both parties. Mr Blackett said that the Applicant had reimbursed FPAL for all the electricity used by the Respondents so that they were not out of pocket.

27. Mr Blackett confirmed that it had been the Applicant's intention that the Respondents would have their own electricity supply. Mr Blackett explained that historically the property had been used by the dairyman at the farm and it had been convenient to have the electricity supply as one unit. And this was continued when Mr Blackett's parents occupied the property and was managed by apportionment. Mr Blackett said that the Applicant had applied for the property to have its own electricity supply but that it had taken some time to arrange. Mr Blackett explained that it had involved digging a trench and laying a new cable all at a cost of about £9000.00 but that the Respondents had moved out of the property before the new supply was activated. Mr Blackett explained that was why the new tenants at the property were not now billed for electricity.

28. Mr Blackett explained that the Applicant and FPAL were engaged in a joint venture with the Applicant providing the land and FPAL the cattle and the personnel. Mr Blackett said that the electricity bills for the yard and the property were sent to FPAL

29. Mr Blackett was referred to Production no.88 an invoice to the Respondents dated 12 September 2024 and also to the invoices on pages 89,91 and 92. Mr Blackett confirmed the three invoices added up to £828.72 and that he had tried to make things as clear as possible to the Respondents. Mr Blackett was then referred to the invoices on pages 93,94vand 95 as well as on page 86 and asked to explain how the figure of £10458.79 was calculated. Mr Blackett said that they had extrapolated back the information from the amount recorded on the private meter to calculate a fair amount that the property had been using compared to the yard.

30. Mr Bryce queried with Mr Blackett how the figure of £89.00 had been calculated and Mr Blackett said that it was a best guess at that time but that there had been quite a lot of inflation in power charges since then. Mr Blackett confirmed that there was no electric meter in the property when the Respondents moved in and that the Applicant received the electricity bills and that £89.00 was deemed to be fair usage at that time. Mr Blackett went on to say that the billing changed when the new dairy partnership was set up with FPAL in 2020 and the bills were then sent to FPAL. Mr Blackett explained that Nethermill Farm was used for calves in the spring and not during the rest of the year. Mr Blackett said that the FPAL manager had said that the electricity was costing a lot more than expected and that this had been raised by him in about 2022 0r 2023. Mr Blackett said that he and the manager had gone to see the Respondents but that they were not prepared to be helpful. Mr Blackett said he had arranged to have the electricity meter tested and it was not faulty so he had then arranged to install the new meter.

31. Mr Bryce queried whether a claim for £16767.48 over two years after the Respondents had paid a further £190.00 a month was realistic when this meant that the Applicant was seeking an additional £698.00 per month. Mr Blackett said that this represented the metered usage and suggested that the Respondents were charging electric cars at the property and using electric heaters but he would not speculate on what the Respondents were using the electricity for but only wanted to be reimbursed for the electricity used.

32. Mr Blackett confirmed that there had not been a problem between 2019 and 2023 but that the issue had been brought to a head when the FPAL manager came to him.

33. In response to a query from Mr Bryce, Mr Blackett confirmed that the Respondents had asked to have their own electricity supply and the Applicant had joined the queue to have this installed.

34. In response to a further query from Mr Bryce, Mr Blackett said that although the Lotus meter could not generate a bill, he had made sure it was accurate and had applied back in 2024 for a new supply and paid £9000.00 for it to be installed.

35. Mr Bryce asked why the Respondents did not have access to the Lotus meter and Mr Blackett said that they could have had access if they had asked but they

were in denial and were uncooperative and the relationship had broken down and they were no longer really on speaking terms.

36. Mr Blackett confirmed that despite these ongoing issues the Applicant had not taken any steps to end the tenancy although it had been considered and had just wanted to be paid for the electricity used.

37. Mr Bryce asked why there was a commercial supply in place to FPAL when the Respondents were using the electricity for residential purposes. Mr Blackett said the Applicant had a number of tenants in the property before his parents had lived there and the issues had only arisen when the Respondents had not cooperated and then a separate supply had been installed.

38. Mr Bryce suggested that the Respondents had already asked for their own electricity supply and Mr Blackett said that they had asked and the Applicant had supplied a meter and that it was not a simple matter to install a new supply it required surveyors and was a fairly major operation. Mr Blackett went on to say that they had first looked to see if the existing supply could be split and that was not possible and it was not something that could be done quickly.

39. Mr Bryce referred Mr Blackett to the keypad on the shed door and received confirmation that the Respondents had not been given the code. Mr Blackett said he was prepared to allow the Respondents access to the shed if accompanied but not prepared to grant them access as the Applicant had materials stored there. Mr Blackett said that the Respondents had they wanted to they could have come with him to read the meter.

40. Mr Bryce referred Mr Blackett to the photograph of the Lotus meter on page 72 of the productions. Mr Blackett confirmed that it had a zero reading He also said that he had no reason to doubt the readings taken by Mrs Muldowney as she had no reason to lie.

41. Mr Blackett said that there was no longer any electricity used by the property on the FPAL account as the property now had its own supply. Mr Bryce referred Mr Blackett to page 86 of the productions and the invoice to the Respondents of 6 June 2024. Mr Blackett confirmed that this was the first time the Respondents had been given a figure for the amount said to be due by them but that he had had discussions previously with the Respondents and tried to find a way through to reach an agreement.

42. In response to a query from Mr Bryce, Mr Blackett confirmed that the figure of a usage of 59.22%v had been calculated by Mrs Muldowney. Mr Bryce suggested that if the figures were not going to be questioned the Applicant ought to have provided the Respondents with their own meter or let them have access to the Lous meter to take their own readings. In response Mr Blackett said that the Applicant had installed a meter and had been prepared to let the Respondents be present when the meter was read but the Respondents refused to discuss matters. Mr Bryce suggested that was not true. Mr Blackett said that the Respondents asked for a meter and the Applicant took steps to

install one and if the Respondents had remained in the property, they would now have their own supply.

43. Mr Bryce referred Mr Blackett to Page 64 of the productions, an email from Octopus energy to Mr Blakey dated 13 November 2024. Mr Blackett said he did not dispute that the Respondents wanted their own electricity supply but that they moved out as it was installed as they would not let the contractors in to allow the installation to be completed.

44. Mr Bryce referred Mr Blackett to pages 65, 66, 67 and 68 and suggested these were not the actions of someone trying to hinder the connection of a new electricity supply. Mr Blackett said that Mr Hatfield had been impeded in carrying out his work and that the Applicant was as keen as anyone to have the property installed with its own electricity supply.

45. Mr Bryce commented that the Tribunal had not been given the electricity bills before 2023 or after 2025 and asked Mr Blackett what the usage was now. Mr Blackett said he did not know as it was none of his business. Mr Blackett also said that the new tenants were heating the property with oil.

46. In response to a query from Mr Bryce as to the extraordinary amount of electricity said to have been used by the Respondents, Mr Blackett said it was not for him to offer an explanation although he was aware that the Respondents had charged electric cars at the property but he did not know what other appliances they may have had.

47. In response to a query from the Tribunal, Mr Blackett confirmed that the oil fired boiler was serviced annually and that there had been a complaint by the Respondents that the boiler did not work and that a contractor had attended at the property.

48. In response to a further query from the Tribunal Mr Blackett said that he had spoken to the energy supplier about the meter but he had instructed Lotus Electrical Services and this was quite normal. He said that if Lotus had uncovered anything he would then have contacted the supplier.

The Evidence of Victoria Charlotte Blakey

49. Mrs Blakey said that she worked part-time in a milking parlour. she said she had been a tenant at the property along with her husband for a period of five years and that her older daughter, younger daughter and son also resided at the property which was a large but not huge house. Mrs Blakey confirmed that when they moved into the property it was agreed that they would pay £85.00 per month for electricity and this was later increased to £190.00 per month. Mrs Blakey said that they did not do anything unusual to consume large amounts of electricity. Mrs Blakey went on to say that in their current property which has gas central heating they are paying £190.00 per month for gas and electricity combined.

50. In response to a question from Mr Maxwell as to the Respondents' current address, Mrs Blakey said she did not wish to disclose this due to the previous difficulties experienced with the Applicant.

51. In response to a further query from Mr Maxwell, Mrs Blakey said that the Respondents had received a bill asking for payment of more than £10000.00 and that was the first they had known about the new meter readings. Mrs Blakey said that she remembered seeing the invoice dated 12 September 2024 (Page 88 of the Productions) and being a bit shocked at the amount. Mrs Blakey said she did not remember seeing the invoice dated 6 June 2024 (Page 86 of the productions). Mrs Blakey said that she had submitted the bills she had to be given in evidence.

52. Mr Maxwell asked if Mrs Blakey accepted the evidence of Mrs Muldowney and Mr Blackett and Mrs Blakey said she did not. Mr Maxwell then asked if Mrs Blakey thought the witnesses were lying. Mrs Blakey said she had not seen the meter or the readings.

53. Mr Maxwell asked Mrs Blakey if she thought she should pay for the electricity used. Mrs Blakey said that she had paid more than was asked in the tenancy agreement. Mrs Blakey also said that she believed that her husband had asked to view the meter and explained he was unable to attend due to ill health.

54. In response to a query regarding heating at the property, Mrs Blakey said that there were two log burners in the front rooms and radiators heating the other rooms from an oil fired Aga in the kitchen. At first when asked if the Respondents used any electric heating, Mrs Blakey said that these were only used during power cuts but later corrected her position and said that oil filled electric heaters were used particularly to keep her elder daughter's room warm to assist with her medical condition. Mrs Blakey confirmed her children were aged 9, 16 and 20. Mrs Blakey went on to say that hot water was provided by the Aga but that there was also a hot water tank in the loft heated by electric. Mrs Blakey explained that due to a medical condition her husband was at home most of the time. She also said that to keep the property warm they had gone through a lot of logs. Mrs Blakey confirmed that they had charged one electric car at the property but only during the last month of the tenancy.

55. In response to a further query, Mrs Blakey said the property consisted of 4 bedrooms and three public rooms but that the back room and conservatory could not be used because of condensation and damp and spoke of the conservatory leaking and having given her an electric shock.

56. When asked if the property was insulated Mrs Blakey was uncertain. She also did not know the EPC rating for the property. Mr Blackett thought the property was probably rated E or F. Mr Blackett said that following an inspection of the property by the local authority it had been concluded that the mould was from condensation from too much heating. Mr Blackett also said that most of the windows had been replaced with double glazed units but three windows were

still single glazed. He also said the loft was insulated and there was a modern immersion heater in the loft.

Closing Submissions

57. For the Applicant, Mr Maxwell invited the Tribunal to accept that the meter that was installed at the property was accurate and to accept that the readings taken by Mrs Muldowney and Mr Blackett are correct and that if the Tribunal accepts that, then in terms of what has been agreed the charges are the responsibility of the Respondents. Mr Maxwell went on to submit that the joint minute was framed in the hypothetical but if the readings are taken as accurate then it followed that the calculations were correct. Mr Maxwell also submitted that as a party to a legal process the Respondents should disclose their current address and asked the Tribunal to direct them to do so.

58. For the Respondents, Mr Bryce first addressed the issue of disclosure of the Respondents' address and invited the Tribunal not to make a direction given the Respondents concerns and suggested if an order was made the Applicant could instruct tracing agents to locate the Respondents in order to effect diligence against them. With regards to the merits of the claim Mr Bryce submitted that all that had been produced by the Applicant was a series of bills and a request for an order for payment. Mr Bryce said there was an agreement to pay £85.00 per month for electricity until a private meter was installed. That amount was increased by agreement to £190.00 per month. However, the Respondents were not given a private meter in their property nor were they given access to take the meter readings. Mr Bryce said that the Applicant concluded the British Gas meter was operating correctly and then in May 2024 the Applicant submitted an invoice for the previous twelve months based on a calculation taken from readings over a short period on the Lotus meter. Mr Bryce submitted that the Applicant ought to have submitted the British Gas bills before 2023 and the British Gas bills after installation of the new meter but this had not been done therefore the Respondents and the Tribunal did not have any reference points and the application should be refused.

Findings in Fact

59. The Respondents occupied the property in terms of a Private Residential Tenancy from 19 September 2019 until 22 April 2025.

60. Special Condition 3. of the Tenancy Agreement dated 19 September 2019 provided that the Respondents would pay £85.00 per month to the Applicant for electricity at the property but that this would be adjusted with reference to the private meter installed in the property.

61. By agreement in about 2020 the Respondents increased the amount they paid to the Applicant for electricity to £190.00 per month.

62. In about 2020 the Applicant entered into a joint venture with FPAL with the Applicant providing land and FPAL providing cattle and personnel.

63. At that time the Applicant continued to receive bills for electricity at Nethermill Farm and Nethermill House which were on the same commercial supply.

64. At that time the Applicant did not raise any concerns about the Respondents use of electricity or the costs incurred.

65. In about 2023 FPAL assumed responsibility for the supply of electricity at Nethermill Farm and Nethermill House and queried the high cost of electricity with the Applicant.

66. Between the period 28 May 2023 and 17 September 2024 British Gas issued bills to FPAL for electricity at Nethermill Farm and Nethermill House totalling £29040.89 inclusive of VAT at 20%.

67. Between 30 September 2024 and 10 January 2025 EON issued bills for electricity to FPAL totalling £5289.62 inclusive of VAT at 20%.

68. In late 2023 or early 2024 Mr Blackett and a manager from FPAL contacted the Respondents to suggest they increase the amount they paid for electricity.

69. The Respondents did not agree and asked that the meter at the farm be checked for accuracy.

70. Lotus Electrical Services were instructed to test the Farm meter and concluded it was recording accurately.

71. In early 2024 the Respondents requested that the Applicant provide them with their own power supply.

72. The Applicant did arrange for a new supply to be installed at the property but by the time it was ready to be connected the Respondents were close to vacating the property and the new supply was connected after they had vacated the property.

73. In February 2024 the Applicant instructed Lotus Electrical Services to install a sub-meter in a locked shed in the courtyard of the property.

74. The shed did not form part of the Respondents’ tenancy and required a PIN code to access the meter,

75. The Respondents were not given the PIN code.

76. Meter readings were taken by Mrs Muldowney or Mr Blackett on 4 July, 22 July, 22 August, and 25 September 2024 and on 18 March and 22 April 2025 and invoices based on the readings obtained were calculated and sent to the Respondents totalling £8629.14.

77. Although FPAL changed supplier from British Gas to EON in September 2024 and EON charged 25p per kilowatt hour for electricity and a standing charge of 30p per day the Applicant continued to invoice the Respondents at the British Gas rate of 30.91p per kilowatt hour and a standing charge of 505 of 60p per day.

78. The Applicant also issued an invoice dated 6 June 2024 for back dated electricity usage for the period of twelve months to 22 May 2024 amounting to £10458.79 based on the Respondents being liable for 59.22% of the total electricity used at Nethermill Farm and Nethermill House during that period.

79. The figure of 59.22% was calculated by Mrs Muldowney on the meter reading recorded on 26 May 2024 and covering the period from 26 February 2024 when the Lotus Meter was installed against the British Gas invoice for Nethermill Farm and Nethermill house for the same period.

80. The property consists of three public rooms, four bedrooms and has a conservatory and a kitchen and bathroom.

81. The property has an oil fired Aga boiler supplying central heating and hot water and there are also two log burning fires in the property and an electric immersion heater.

82. The Respondents used oil filled electric heaters to supplement heating particularly in their older daughter's bedroom because of her medical condition.

83. The Respondents used electricity to charge an electric car in the last stages of their tenancy.

84. Most of the windows at the property were replaced with double glazed units during the tenancy but three windows remain single glazed.

85. There is insulation in the loft.

Reasons for the Decision

86. Although the Tribunal accepted much of Mrs Muldowney and Mr Blackett's evidence as being on the whole credible and reliable, there were fundamental and fatal problems with the Applicant's case. The tenancy agreement was quite clear in its terms. Special condition 3 provided that "*The electricity will be payable by the tenant to the landlord at a monthly charge of £85. This will be adjusted by reference to the private meter installed* ***in*** *the property"* Unfortunately for the Applicant there was never a private meter installed in the property during the tenancy. The Lotus meter was installed in a locked shed which was not part of the property as it was not part of the tenancy. The property is defined in the tenancy agreement as "*Nethermill House, Kirkbean, Dumfries, Dumfries and Galloway DG2 8BJ"* and at Clause 1 it states "*The property includes any Property Additional Areas, Property Shared Facilities and the right to use any Access Route but excludes any Property Excluded Areas."* The

Property Excluded Areas are said to be “*The Parlour and the locked sheds to the east side of the yard”.* Thus, when in Special Condition 3 reference is made to a private meter being installed in the property it would have to be installed in the house itself or in somewhere other than the locked sheds. It might have been possible to have reached an agreement with the Respondents if they had been given free access to the Lotus meter but as it appears by the time the meter was installed relationships were strained this was not an option or considered. In any event the problem for the Applicant remains that the Lotus meter as installed does not meet the criteria to be considered a private meter installed in the property. Accordingly, the Respondents were only obliged to pay the amount specified in Special Condition 3 or such other amount that might be mutually agreed and therefore the application must fail.

87. Although the issue is now academic, had the Tribunal been satisfied that the Lotus meter was indeed a private meter in terms of the tenancy agreement then it would have been quite proper to charge the Respondents for the electricity used from the date the meter was installed (assuming the meter accurately recorded the electricity used) but there was nothing in the tenancy agreement to suggest that the Applicant was entitled to assume that the Respondents’ usage in one period could be attributed to their usage historically and therefore had it been necessary the Tribunal would have refused the Applicant’s claim for payment for the twelve month period to 22 May 2024. It is entirely speculative to assume that the usage over a period in Spring 2024 reflected the Respondents’ usage over the previous year. Even if the Lotus meter over the period from 26 February 2024 to 22 May 2024 amounted to 59.22% of the total amount of electricity consumed by both Nethermill House and Nethermill Farm in that period, the Applicant has not proved that this was the Respondents’ share of the usage for the period from 22 June 2023 to 22 May 2024.

88. The purpose of having a private meter installed in a property by a landlord in circumstances where there is a shared electricity supply is to provide the tenant with control over their usage and transparency of the costs to be incurred. That was not the case here. The Respondents had no control and there was no transparency. They were unable to check if the Lotus meter was accurately recording their electricity usage as they had no access to the meter. Mr Hatfield in his evidence said that the Lotus meter was certified by the manufacturers and was therefore recording the Respondents’ usage correctly however no check on the Lotus meter was carried out by him or anyone else.

89. The Tribunal was unable to determine if the Respondents’ usage of electricity claimed by the Applicant was accurate or not. The accuracy of the Lotus meter has not been tested. The British Gas bills for the period before 2023 were not provided nor were the bills for Nethermill Farm following the separation of the power supply to the property. These would have undoubtedly assisted the Tribunal had it been necessary to reach a decision on the Respondents usage of electricity.

90. For the sake of completeness, the Tribunal found Mrs Blakey’s evidence on the whole to be quite credible and reliable. The Tribunal considered that there were issues with the oil fired Aga providing heat to the radiators and that the

Respondents did use electric oil filled radiators to supplement the heating in addition to log fires but the Tribunal did not find any evidence to suggest that the Respondents were using electricity for anything other than normal domestic purposes. However as indicated above the Tribunal is unable to reach a conclusion on the actual amount of electricity used by the Respondents over the period in question.

91. The Tribunal was satisfied from the evidence of both Mr Blackett and Mrs Blakey that the Respondents requested that a private meter (and indeed an independent power supply) was installed in the property. It was not clear to the Tribunal why it took from early 2024 until at least March 2025 for the new supply to be ready to be connected although the Tribunal accepted that some delay was perhaps inevitable.

92. Notwithstanding the terms of the uncontroversial evidence, the Tribunal noted that the invoices issued by the Applicant to the Respondent for the period from mid-September 2024 to the end of the tenancy were charged at the British Gas rate of 30.91p per Kwh and 50% of a standing charge of 60p per day but that FPAL had changed supplied in September 2024 to EON and the rate charged for electricity had fallen to 25p per Kwh and the standing charge had reduced to 25 p per day. Had the Tribunal found in favour of the Applicant it would have reduced any sum awarded to reflect that the Respondents had been wrongly charged.

93. As the application is to be refused the Tribunal does not intend to make a direction that the Respondents disclose their current address to the Applicant.

Decision

94. For the reasons given above the Tribunal has determined that the application should be refused.

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.

Graham Harding **11 October 2025**
Legal Member/Chair **Date**