



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 26 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in relation to an application for eviction/ possession of a Rented Property in terms of Rule 65 of the Procedure Rules.

Chamber Ref: FTS/HPC/EV/25/1475

Re: 55 (1F3) Logie Green Road, Edinburgh, EH7 4HB ("the Property")

Parties:

Bryan Beattie and Mrs Emer Beattie residing at 2 Brumderfit Farm, North Kessock, IV1 3ZF ("the Applicant")

Adam Gardiner, Solicitor, Lindsays LLP ('the Applicants' Representative').

Richard Cameron residing at 55 (1F3) Logie Green Road, Edinburgh, EH7 4HB ("the Respondent")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")

Tribunal Member: Jacqui Taylor (Legal Member) Kingsley Bruce (Ordinary Member)

Background

1. The Applicant applied to the Tribunal for eviction/ possession of the Rented Property under section 18(1) of the Housing (Scotland) Act 1988, in terms of Rule 65 of the Procedure Rules. The application was dated 7th April 2025. The application states:

'A. The applicants are Mr Bryan Beattie and Mrs Emer Beattie, who are the heritable proprietors of 55(153) Logie Green Road, Edinburgh, EH7 4HB which is the property to which this application relates ("The let property"). The let property is also sometimes referred to as 55/5 Logie Green Road, Edinburgh, EH7 4HB. The respondent is the tenant of an Assured Tenancy Agreement.'

B. The respondent has been a tenant at the let property under multiple tenancy agreements since 1 December 2006. The first such tenancy was a Short Assured Tenancy between the applicants and the respondent dated 1 December 2006. In relation to that tenancy, a Form AT5 was signed by the respondent prior to the tenancy commencing. Furthermore, by letter dated 28 November 2006, the applicants' agents served on the respondent a letter advising that at the end of the period of that tenancy, the applicants may seek to recover possession on the basis of ground 1 of Schedule 5 to the Housing (Scotland) Act 1988. The applicants refer to the documents produced herewith.

C. Two further tenancy agreements were thereafter entered into between the applicants at the respondent. Those were dated 1 April 2008 and 1 August 2010 respectively. On or around 11 January 2011, the applicants' agents sent a letter to the respondent advising that they would "extend" the lease "indefinitely". Reference is made to the documentation produced herewith. On each occasion of entering into a new tenancy, the parties intended to continue the existing tenancy agreement. However, the applicants did not serve on the respondent a Form AT5 prior to entering into the abovementioned subsequent tenancy agreements

D. By notice dated 31 May 2025, the applicants issued to the respondent a Notice to Quit which terminated the contractual tenancy on 1 August 2023. By letter dated 23 January 2025 the applicants subsequently served upon the respondent a Form AT6 in terms of Section 19 of the Housing (Scotland) Act 1988. The said Form AT6 advised that the applicant required to recover possession by 23 March 2025. The said notice and proof of service are produced herewith. The respondent has failed to remove from the property. Consequently, the applicants seek to raise these proceedings and obtain an eviction order.

E. The applicants seek an eviction order on the basis of ground 1 as set out in Schedule 5 of the Housing (Scotland) Act 1988, namely that prior to the beginning of the tenancy the landlord occupied the let property as their only or principal home. Prior to the beginning of the tenancy on 1 December 2006, and in particular between Summer 2003 and Summer 2005, the applicants both lived in the let property as their principal home. Furthermore, the respondent was made aware by letter prior to the said tenancy of 2006 that the applicants may seek to recover possession on the basis of ground 1. The applicants accordingly meet the notice criterion of ground 1. Alternatively, it is

reasonable in all the circumstances to dispense with the requirement of notice for ground 1.

F. For the reasons outlined above, the applicants seek an order for repossession under Ground 1 of Schedule 3 to the Housing (Scotland) Act 1988. It is reasonable in all the circumstances that an order for repossession be granted.

G. A notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 has been served on the Local Authority. A copy of the said notice and proof of service by email is produced herewith.'

2. The documents lodged with the Tribunal were:-

2.1 Short Assured Tenancy dated 1 December 2006 with Form AT5.

2.2 Letter from the applicants' agents dated 28 November 2006.

2.3. Tenancy agreement dated 1 April 2008.

2.4. Tenancy agreement dated 1 August 2010.

2.5. Lease extension letter dated 11 November 2011.

2.6. Notice to Quit dated 31 July 2025 and proof of service.

2.7. Form AT6 dated 21 January 2025, cover letter and proof of service.

2.8. Section 11 Notice addressed to City of Edinburgh Council.

2.9 Email to City of Edinburgh Council dated 7th April 2025 attaching the section 11 notice.

3. By Notice of Acceptance by James Bauld, Convener of the Tribunal, dated 25th April 2025 he intimated that he had decided to refer the application (which application paperwork comprises documents received on 7th April 2025) to a Tribunal.

4. The Case Management Discussion ('CMD').

A CMD was held on 20th October 2025. A separate CMD note dated 20th October 2025 was issued following the CMD.

5. Direction.

The Tribunal issued a Direction dated 20th October 2025 in the following terms:

'The Tribunal, on its own initiative and for the purpose of making inquiries, give the following Direction to the Applicant and the Respondent as to the conduct and

progress of this Application in terms of Section 16 of Schedule 1 to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017: The Applicant is required to provide:

- 1. Confirmation of what the Applicants mortgage providers position is currently. Are the Applicants at risk of the Property being repossessed? What is the level of payment that the Applicants are required to pay to their mortgage provider each month?*
- 2. What is the Applicants position in terms of insuring the Property? Has this been restricted by the requirement to rewire the Property? Is the Property currently insured?*
- 3. Provide evidence that this was their principal home. Who is to live in it once it is to be rewired? Are the Respondents looking to move into it? If not which family members are they intending to move into the Property?*
- 4. Confirmation of the amount of time that the proposed work will be undertaken. Full details of what will cause that to take that length of time.*
- 5. Copies of previous notifications given to the Respondent in terms of rewiring the Property.*
- 6. A full legal submission with supporting authorities in terms of to what extent ground 1 has been met.*
- 7. A list of all witnesses to be called to give evidence at the hearing;*
- 8. All legal cases, statutes and submissions to be relied upon at the hearing; and*
- 9. All documents to be relied upon at the hearing.*
- 10. All items lodged should be paginated in numerical order with an index.*

The Respondent is required to provide:

- 1. Evidence and a submission of why the Respondent considers the notice is invalid.*
- 2. Evidence of the impact of either being evicted or moving to another property would have upon the Respondent's wife's visa application. Evidence of their date of marriage and confirmation as to why at this time the Respondent's wife is to move to the UK. Has the Respondent taken legal advice from an immigration solicitor or advisor? If so what was this advice in terms of his tenancy?*
- 3. What searches for appropriate alternative accommodation has the Respondent undertaken since becoming aware of that his tenancy is an assured tenancy. What advice has he had in terms of being rehoused has he had from his local authority? What will the Respondent do if an order for eviction were to be granted?*

4. *After considering the Applicants lodged details of the exact work and time frame for the rewiring, how exactly will the Respondent be able to continue to live in the Property while the work is being undertaken?*
5. *A list of all witnesses to be called to give evidence at the hearing;*
6. *All legal cases, statutes and submissions to be relied upon at the hearing; and*
7. *All documents to be relied upon at the hearing.*
8. *All items lodged should be paginated in numerical order with an index.*

The said documentation should be lodged with the Chamber no later than close of business on 19th December 2025.'

6. The Applicant's Response to the Direction.

'19 December 2025

The applicants refer to the CMD on held on 20 October 2025. The applicants refer also to the Notice of Direction by the Tribunal dated 20 October 2025. In terms of the said Notice, the applicants were directed to provide information in response to numbered questions by the Tribunal. The applicants' responses to the said questions are provided as follows:

1. Confirmation of what the Applicants mortgage providers position is currently. Are the Applicants at risk of the Property being repossessed? What is the level of payment that the Applicants are required to pay to their mortgage provider each month? *The rent is currently £614 monthly. The current payments being made to the mortgage provider accordingly exceed the rent by £68 each month. 3. The applicants' 20-year mortgage period ended in 2023. Before it ended, and since then, the applicants sought to arrange a further mortgage. However, they have been unable to procure a new mortgage because mortgage providers will not mortgage the property in its current condition. The Applicants currently pay £682 monthly to their mortgage provider. The applicants have agreed an arrangement with the mortgage provider where they pay this amount to demonstrate an ability to reduce the cost of the original lump sum. Since 2023, there have been regular discussions between the applicants and the mortgage provider who wishes to have clarity on the current situation. They are aware of the difficulties the applicants have faced in trying to find a resolution to the situation. They have agreed several extensions to allow the current process to be concluded. They have already gone beyond the two-year period that is the maximum*

usually allowed. The mortgage provider has pressed the applicants to explore other means of paying back the outstanding amount, such as pension savings. It is unclear how long the mortgage provider will allow this process to continue before enforcing the payback.

2. What is the Applicants' position in terms of insuring the Property? Has this been restricted by the requirement to rewire the Property? Is the Property currently insured?

The property is insured by the applicants. The policy has no non-standard restrictions.

3. Provide evidence that this was their principal home. Who is to live in it once it is to be rewired? Are the Respondents looking to move into it? If not which family members are they intending to move into the Property?

The applicants have historically lived in the Black Isle. The first applicant was invited to work for the Scottish Government in around summer 2003. He purchased the let property to live in while he was employed full time in Edinburgh. The Property was acquired to allow him good access to the two main places of work, the Scottish Parliament building at Victoria Quay. He lived in the let property as his principal residence from around summer 2003 until summer 2005. The second applicant lived with him for a period during this time. Following the termination of the first applicant's employment in 2005, the applicants returned to live in the Black Isle. However, it was anticipated that the first applicant may take up employment in Edinburgh at some point in the future. The let property was accordingly let on residential tenancies with the expectation that the applicants would recover possession should they need the property again as their principal residence. The applicants believed they had a Short Assured Tenancy which could be terminated on a mandatory basis should they decided to move back to Edinburgh. However, the first applicant has never been employed in Edinburgh since 2005. As discussed below and at the case management discussion, it is not a requirement of ground 1 that the landlord should seek to recover possession in order to live in the let property. The applicant's view on the future of the Property has fluctuated due to the length of time it has taken to resolve the current dispute. The applicants' eldest daughter attended Edinburgh University in 2018 and it was seen as a possibility for her to use it in her later university years. Similarly, their son is currently attending Napier University and it was hoped that he could use it. He will graduate next year and, should he remain in Edinburgh, they would like it to be an

option for him to use it. Otherwise, the Applicant's experience of owning this Property (the only such property they have had) has been a poor one and financially damaging. It is likely that once it is repaired they will sell it in order to leave the rental market and avoid any further repeat of their experience.

4. Confirmation of the amount of time that the proposed work will be undertaken. Full details of what will cause that to take that length of time.

It is reasonably estimated by the applicant's proposed contractor that the work will involve the following:

- a. Remove all relevant floor coverings for reuse.
- b. Remove all floor boards where relevant.
- c. Remove all plaster works where relevant.
- d. Remove all door facings and skirtings where relevant.
- e. Carry out full re-wire of property/to British standard requirement.
- f. Refit all floor boards.
- g. Carry out all plaster works. h. Refit all timber finishings.
- i. Fully decorate the property complete.
- j. Refit all floor coverings.

The above works require to be done throughout the entire flat. The applicant's contractor reasonably estimates that the duration of the works could be 10 to 14 weeks. The reasons for this are:

- a. The work involves different trades, plumbers, electricians and joiners, who have to be co-ordinated which takes time. Tradesmen have to carry out their particular work without having to work around other trades.
- b. Lifting floor boards requires the property to be vacant to reduce health and safety risks.
- c. Power and water has to be disconnected, meaning that work time is limited.
- d. After completion of builder work, the whole property has to be redecorated and new floor coverings fitted.

5. Copies of previous notifications given to the Respondent in terms of rewiring the Property.

The respondent has been advised about the rewiring of the property on multiple occasions between 2020 and 2025 by the applicants' letting agent. The applicants

refer to the extracts from the applicants' letting agents' case management system which are lodged herewith.

6.A full legal submission with supporting authorities in terms of to what extent ground 1 has been met.

In terms of Schedule 5 of the Housing (Scotland) Act 1988, eviction ground 1 states as follows:

Not later than the beginning of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered on this Ground or the First-tier Tribunal is of the opinion that it is reasonable to dispense with the requirement of notice and (in either case)— (a) at any time before the beginning of the tenancy, the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them occupied the house as his only or principal home; or (b) the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them requires the house as his or his spouse's or civil partner's only or principal home, and neither the landlord (or, in the case of joint landlords, any one of them) nor any other person who, as landlord, derived title from the landlord who gave the notice mentioned above acquired the landlord's interest in the tenancy for value.

Provisions (a) and (b) of ground 1 are alternative ways to satisfy the eviction ground. The applicants seek to rely upon provision (a) of ground 1.

In particular, the applicants seek to rely on the fact that prior to the beginning of the tenancy, both of the applicants occupied the let property as their principal home². Between Summer 2003 and Summer 2005, the applicants both lived in the let property as their principal home.

The conditions of provision (a) of ground 1 are accordingly met.

7. *It is also a condition of ground 1 that prior to the commencement of the tenancy the landlord has served on the tenant a notice advising that the landlord might recover possession of the property on the basis of ground 1. The applicants refer to paragraph A1- 05 of Robson & Combe, Residential Tenancies (4th ed). However, the Tribunal has the discretion to waive this requirement if it decides that it is reasonable to*

dispense with it. The parties originally entered into a tenancy agreement dated 1 December 2006. However, the 2006 tenancy was superseded by a tenancy agreement between the parties dated 1 April 2008. The parties entered into yet another new tenancy agreement dated 1 August 2010. In the applicants' position, the 2010 tenancy is the tenancy which is the subject of this application. 15. In clause EIGHTH of the 2006 tenancy agreement (document 1 for the applicants), the applicants gave notice to the respondent that they may seek to terminate the tenancy on the basis of ground 1. This clause of the tenancy agreement accordingly met the notice requirements for ground 1 in respect of the 2006 tenancy. In clause 29 of the 2010 tenancy agreement (document 4), the applicants gave notice to the respondent that they may seek to terminate the tenancy on the basis of ground 1. This clause of the tenancy agreement accordingly met the notice requirements for ground 1 in respect of the 2010 tenancy. Should the Tribunal decide that the notice requirement of ground 1 has not been met by the applicants, it is submitted that the Tribunal should dispense with this requirement. The Tribunal may take into account any factors it considers to be relevant when deciding whether or not to waive the requirement. The applicants refer to the decision in application FTS/HPC/EV/22/0703 Watters v Henderson. The applicants submit the requirement should be waived for the following reasons:

- a. The applicants always intended for the tenancy to be terminated on the basis of ground 1 since 2006, and they attempted to serve notice to this effect.*
- b. There are no other available grounds which could be relied upon by the applicants notwithstanding that they urgently require to recover possession of the property.*
- c. Ground 1 was historically a "mandatory ground" which, if satisfied, would require that an eviction order be granted regardless of the circumstances. The requirement for the landlord to give prior notice was a mechanism which was designed to ensure the tenant was aware of the mandatory effect of ground 1. However, the mandatory nature of ground 1 has since been removed following the passing of the Coronavirus (Recovery and Reform) (Scotland) Act 2022. The Tribunal may only grant an eviction order based on ground 1 if it is reasonable in all the circumstances. Accordingly, the notice requirement no longer performs in a function within the context of termination of an Assured Tenancy. There is no prejudice to the respondent in disregarding the notice requirement because the Tribunal may not in any case grant an eviction order*

based on ground 1 unless it is satisfied that it is reasonable to do so. For these reasons, it is reasonable to dispense with the notice requirement of ground 1.'

8. The Respondent's Response to the Direction.

'Submission of why the notice is invalid.

My position on why the notice is invalid remains unchanged since the CMD on 20th October 2025, that the motive behind seeking to evict me is in order to refurbish the flat and re rent it at an increased value. I think the rewiring that was cited as required was the means by which they hoped I would quit the premises, but my being informed by their second contractor that doing the work would not require me leaving the premises, cause unanticipated resistance from my part.

To that end, if it is possible for me to ask questions and for evidence in this process, I would be grateful if by the time of the hearing Hadden Rankin would respond to the following question:

On what basis was the original wiring reviews in 2021 requested? Did Hadden Rankin carry out these inspections as standard practice on all their rental properties? If this was a standard practice, can they provide evidence of this. If it was not standard practice, can they explain why they commissioned the two surveys in the first place?

As advised by Citizens Advice Edinburgh on 11th December 2025, they also put forward the following points for disputing the eviction

- 1. Tenancy background and legal context*
- 2. The tenancy originated in 2006. Several further agreements (2008, 2010, 2011) were signed. Because the renewal documents did not comply with the SAT 'savings' rules the tribunal indicated it is more likely an assured tenancy.*
- 3. Under an assured tenancy eviction is only possible if:*
 - (a) a statutory ground is established and*
 - (b) eviction is reasonable.*

Ground 1 requires that the landlord either (1) gave written notice at the start of the tenancy that they may rely on this ground or (i) the Tribunal decides to dispense with that requirement using discretionary powers.

The landlord is now arguing for that discretion because they cannot produce this original notice.

The tenancy background is important: if the Tribunal does not waive the requirement for early Ground 1 notice the case could fail.

Case status.

The Tribunal hasn't decided on validity yet. It has simply noted that the issues are disputed and must go to a full hearing. Evidence must now be submitted on:

Legality and accuracy of the notices serve (AT6 and NTQ).

Whether Ground 1 applies

Whether eviction would be reasonable.

Notice validity challenges.

No evidence that the landlord served the required ground 1 Notice at the tenancy creation.

Potential defects in the AT6/NTQ

Tribunal should not use discretion here because of the history of delays and the significant consequences for the client.

The landlord is arguing that the need for major works and financial hardship justify waiving the requirement.

Challenging the Ground (major works/requirement for vacant possession)

The Landlord's case relies on needing the property vacant for 10-14 weeks of rewiring and other refurbishment. Points the client can use:

There is conflicting contractor evidence- one contractor previously said he could remain in the flat during the works.

The landlord has known about the rewiring issues since 2021 and did not act, which under mines urgency.

Client is willing to facilitate access and secure his belongings.

Financial pressures (mortgage issues) arose later and do not automatically justify eviction.

These issues all go to whether Ground 1 is genuinely established.

Reasonableness arguments

Even if ground 1 is met, eviction must still be reasonable. Strong factors in clients favour:

Long term tenancy and stability needs.

Risk of homelessness, especially in the current Edinburgh housing emergency.

No rent arrears, antisocial behaviour or tenancy breaches

He has good history of maintaining the property and is willing to cooperate with access.

With regards to the financial hardship that the landlords mentioned during the CMD, I would like to point out that the landlords purchased the property for £100,000 and that during the duration of the tenancy I have paid at least £120,000 in rent and closer to £125,000. Unfortunately, I am unable to provide an exact figure as my electronic bank statements only go back 7 years. During that time in the Property I have only ever requested a replacement for a fridge that had stopped working and a vacuum cleaner that no longer worked effectively. When the television that came with the flat broke down, I did not request a replacement, only permission to dispose of the broken television and purchase one of my own. All other fixtures and furnishings as they were when I first moved in. By the time I felt that it would be appropriate to request a new bed and mattress I did not feel comfortable requesting this due to the circumstances being discussed in this case. I mention all of the above to convey that I feel I have been a very undemanding tenant in terms of extra expense and that I should not be penalised for the terms of the landlords mortgage no longer being advantageous when I have paid more than enough to cover the house purchase price and likely the letting agency commission also.'

9. The Hearing.

This case called for a Webex video Hearing at 10am on 9th March 2026.

Bryan Beattie, one of the Applicants attended and was represented by Adam Gardiner, Solicitor, of Lindsays LLP.

The Respondent attended and was represented Andrew Wilson of Community Help & Advice Initiative (CHAI).

The Applicant's Representative called Bryan Beattie and Kate Podles of Hadden Rankin as witnesses.

The Respondent's Representative called the Respondent as a witness.

9.1 Preliminary matter.

At the start of the hearing Mrs Taylor referred the parties to the documents that the Applicant's Representative had lodged late. He had lodged a joint bundle, the inspection report dated 16th February 2026 and photographs dated 2005. The

Respondent's Representative did not object them being lodged late and the Tribunal allowed them to be received, although lodged late.

9.2 Agreed facts.

At the start of the hearing the parties confirmed the following agreed facts:

9.2.1 The Property 1F3, 55 Logie Green Road, Edinburgh, EH7 4HB is a one bedroom flatted property.

9.2.2 The accommodation comprises bedroom, living room, kitchen and bathroom.

9.2.3 The Respondent first leased the Property from the Applicants on 1st December 2006 and he has occupied the Property since that date.

9.2.4 The latest lease between the parties is an assured tenancy dated 2nd August 2010.

9.2.5 Notice to Quit dated 30th May 2023 was served on the Respondent on 31st May 2023.

9.2.6 AT6 dated 21st January 2025 was served on the Respondent by Sheriff Officer on 23rd January 2025.

9.3 A summary of the evidence of, Bryan Beattie, one of the Applicants.

9.3.1 He bought the Property jointly with his wife Emer Beattie .He originally stated that he bought the Property in 2003 and later corrected the date to 2004.

9.3.2 He bought the Property as he had been offered a position providing advice to the Scottish Ministers and he had to be based in Edinburgh.

9.3.3 He has owned Brumerfit Farm, North Kessock since 1988.

9.3.4 Between 2004 and 2006 he lived most of the week in the Property in Edinburgh and returned to the family home at Brumerfit Farm, North Kessock, most weekends. His family tried to live with him in the Edinburgh flat but it was too small for all of them. His wife and family stayed at Brumerfit Farm, North Kessock. During this time the Property 55 (1F3), Logie Green Road, Edinburgh was not his only home but it was his principal home as he also owned Brumerfit Farm, North Kessock.

9.3.5 He did not change his correspondence address in connection with his bank accounts to 55 (1F3), Logie Green Road, Edinburgh. Only correspondence in connection with that Property was sent to that address such as mortgage documents and utility bills.

9.3.6 When he was living at 55 (1F3), Logie Green Road, Edinburgh he did not change his registered address with his Doctor or Dentist to his Edinburgh address, it remained

his address at Brumerfit Farm, North Kessock .

9.3.7 His employment was largely secondment based and as his future use of the Property was uncertain he decided to lease the Property in 2006.

9.3.8 His Letting agent Hadden Rankin Property Management prepared the lease documents on his behalf.

9.3.9 The first lease in favour of the Respondent was a short assured tenancy and it was dated 1st December 2006.

9.3.10 His Letting Agent provided him with a copy of the EICR report dated 2019 which stated that the electrical installation was unsatisfactory. He was concerned about the condition of the wiring in the Property and after that time the Letting Agents made their first approach to the Respondent to recover the Property.

9.3.11 Notice to Quit was served on the Respondent dated 30th May 2023.

9.3.12 There was a delay in progressing the eviction due to covid and the resultant restrictions on evictions.

9.3.13 The mortgage over the Property expired three years ago. He has been unable to remortgage the Property due to the condition of the wiring.

9.3.14 Usually the mortgage provider would allow some leeway for two years but the situation has been in limbo for three years.

9.3.15 He received a letter from the mortgage company last week which stated that the matter had been going on for too long. He believes that their patience is coming to an end.

9.3.16 The monthly mortgage payments of £680 are more than the monthly rent payments which amount to £614.

9.3.17 He currently loses approximately £4000 per annum after all the costs associated with the tenancy of the Property are taken into account.

9.3.18 He has not increased the rent recently. He relies on his Letting Agent for this advice.

9.3.19 He is in a very difficult position. He could sell the Property in its current position but the sale price would be for less than the true value of the Property due to the condition of the wiring. He cannot get a mortgage due to the condition of the wiring and he cannot go ahead with the rewiring whilst the tenant resides in the Property.

9.4 A summary of the evidence of Kate Podles.

9.4.1 She is managing director of Hadden Rankin.

9.4.2 She has had over 15 years experience in the letting agent sector.

9.4.3 The Property 55 (1F3), Logie Green Road, Edinburgh is a small compact one bedroom flat. It extends to approximately 40 square meters.

9.4.4 She last inspected the Property in February 2026.

9.4.5 She remembers that the Property was very cluttered.

9.4.6 She confirmed that the EICR report dated 2019 stated that the electrical installation in the Property was unsatisfactory.

9.4.7 After receiving the EICR report she spoke to three electricians who recommended that the Property was completely rewired.

9.4.8 She did not instruct the rewiring of the Property as the tenant was still in situ. The rewiring could not be carried out whilst the tenant was still residing in the Property due to health and safety concerns. There would be a lot of dust generated. There would be no electricity supply during the works and restricted access to the bathroom and the kitchen. The Property needs to be rewired as a matter of urgency. She respected the advice that she received from the electricians who had advised that the Property should be empty to enable the rewiring to be carried out.

9.4.9 She referred to the estimate from Mark Denholm which states that if the Tenant did not vacate the Property whilst the rewiring works were carried out the works would take an additional four days to complete.

9.4.10 The electrical contractors had advised that the rewiring of the Property could take 10 to 14 weeks to complete.

9.4.11 She was not aware that the Tenant had offered to stay with family members whilst the rewiring works were carried out.

9.4.12 If the Tenant had to stay in temporary holiday accommodation the cost would exceed £100 per night.

9.4.13 She had not submitted a Right of Entry application to the Tribunal for access to enable the rewiring works to be carried out.

9.5 A summary of the evidence of the Respondent, Richard Cameron.

9.5.1 He consulted the Citizens Advice Bureau regarding the proposed rewiring of the Property and was advised that it would be possible to complete the rewiring without vacating the Property.

9.5.2 He confirmed that he had stated at the CMD that he could stay with his step father whilst the rewiring was being completed. His step father has a two bedroom flat

and he would be able to store his belongings there whilst the work was being carried out.

9.5.3 He has lived in the Property 55 (1F3), Logie Green Road, Edinburgh for over twenty years. It is his home. He is part of the community there.

9.5.4 He believes that electrical firms could complete the rewiring of the Property without him having to vacate the Property. He searched electricians on line to ascertain this information. He did not arrange for an electrician to inspect the Property. From his rudimentary research the suggested period of time of 10- 14 weeks seems to be too long.

9.5.5 He confirmed that he would accept a rent increase after the rewiring works were completed.

9.6 A summary of the Submissions of The Applicant's Representative.

9.6.1 Mr Gardiner clarified that he was seeking eviction under Ground 1(a) of Schedule 5 of the Housing (Scotland) Act 1988 on the basis that Bryan Beattie occupied the Property as his only or principal home before the beginning of the tenancy.

9.6.2 He made submissions in respect of the Notice to Quit, the AT6 and that the Landlord had given the Tenant prior notification that they may seek recovery of possession on the basis of Ground 1. As these points were accepted by the Respondent the details are not provided.

9.6.3 He sought to add Ground 6 as an additional ground for repossession in terms of section 19(2) of the Housing (Scotland) Act 1988 on the basis that refurbishment works are required and the Tenant has been aware of this. He acknowledged that this was the first time that he had sought to add Ground 6 to the application. He explained why he believed that the requirements of Ground 6 had been met and he referred the Tribunal to the Upper Tribunal decision of *Stainthorpe v Carruthers and Swan* 2023 UT 20.

9.6.4 He acknowledged that Procedure Rules 14 and 14 A states that an application to amend a party's written representations and an amendment raising new issues must be made no less than 14 days before the hearing and the Respondent must be given an opportunity to make written representations in response to the amendment. In response he sought an adjournment of the hearing to allow time for these amendments to be made. Mrs Taylor advised that the Tribunal would not make a

decision in relation to the adjournment request during the hearing and a decision would be issued following the hearing.

9.6.5 Mr Gardiner advised the Tribunal that he considered that it was reasonable for the Tribunal to grant the eviction. The original tenancy was a short assured tenancy and in 2006 the Landlords were entitled to recover possession at the end of a short assured tenancy as it was a mandatory ground for possession. As a result the Tenant would have been aware from the start of the tenancy that the Landlords were entitled to recover possession.

9.6.6 The fact that the Applicants' mortgage has come to an end and his monthly mortgage payments exceed the monthly rent payments has placed the Applicants in financial difficulty. The Applicants could increase the rent but the Tenant would be entitled to challenge such an increase.

9.6.7 The Applicants have not decided what to do with the Property in the event that they recovered possession. They may relet the Property.

9.6.8 He acknowledged that the Tenant stated that he would leave the Property to enable the rewiring works to be carried out. However, he suggested that the reality is that this may not be practical as the rewiring works may take between ten and fourteen weeks to complete.

9.7 Submissions of the Respondent's Representative.

9.7.1 The Respondent's Representative, Andrew Wilson, advised that he does not object to the Notice to Quit and the AT6 notice and he accepts that the Tenant received prior notice that the Landlords may seek to recover possession under Ground 1 of Schedule 5 of the Housing (Scotland) Act 1988.

9.7.2 He does not believe that the condition of Ground 1(a) of Schedule 5 of the Housing (Scotland) Act 1988 has been met. Whilst Bryan Beattie resided in the Property 55 (1F3) Logie Green Road, Edinburgh prior to the start of this tenancy it is his submission that he did not occupy the Property as his principal home. His principal home was at Brumderfit Farm, North Kessock.

9.7.3 He objects to the Applicant's Representative's application to amend the application to include Ground 6 at this late stage.

9.7.4 The Respondent has offered to move out of the Property while the rewiring works are carried out and the Applicants have not taken up this offer.

9.7.5 He has sympathy for the Applicants financial position but suspects that they

have not been advised correctly. The Local Housing Allowance is set by Government as being the lowest average rental market in a reference area. In Edinburgh the Local Housing Allowance for a one bedroom flat is £750.

9.7.6 It is for the Tribunal to assess whether it is reasonable for the eviction to be granted and to weigh the detriments and the benefits.

9.7.7 If the Applicants were to sell the Property they would probably be able to sell the Property for double the original purchase price. Alternatively, they could keep the Property and improve it. The Respondent has agreed to cooperate with the rewiring works that are required and has stated that he would accept that the rent would have to increase.

9.7.8 In light of the evidence presented to the Tribunal it is not reasonable for the Tribunal to grant the eviction.

10 Decision in relation to the application by the Applicant's Representative to amend the AT6 and the application to include Ground 6 of Schedule 5 of the Housing (Scotland) Act 1988 and to seek an adjournment.

10.1 It is an over riding objective of the Tribunal to deal with proceedings justly. The application was dated 7th April 2025. There had been a Case Management Discussion held on 20th October 2025. The matter of the rewiring was discussed at the Case Management Discussion. The Applicants' Representative did not make the application to amend the AT6 or the application to include Ground 6 until he was making his submissions during the hearing on 9th March 2026. He did not give the Respondent any prior notice of his proposed amendment and did not comply with the requirements of Procedure Rule 14 or Rule 14A.

10.2 The Tribunal acknowledge that section 19(2) of the Housing (Scotland) Act 1988 provides that the grounds detailed in the AT6 may be altered with the Leave of the Tribunal.

10.3 However the Tribunal considers that it is material that the requirements of Procedure Rules 14 and 14A have not been complied and the Respondent has not been given prior notice of the application to amend the AT6 and the application and therefore the Tribunal do not consent to the AT6 and/ or the application being amended to include Ground 6.

10.4 In connection with the Applicants' Representative's application to adjourn the hearing to allow time for him to amend the application the Tribunal are mindful that it is an overriding objective of the Tribunal to avoid delay and therefore the Tribunal do not agree to the Applicants' Representative's request to adjourn the hearing.

10.5 Requirements of Rule 65 of the Procedure Rules.

Rule 65 (a) states that the application under section 18(1) of the 1988 Act must state:

- (i) the name, address and registration number of the Landlords.
- (ii) the name and address of the Landlords' representative.
- (iii) the name and address of the Tenants.
- (iv) the possession grounds which apply. The ground stated in the application is Ground One.

The Tribunal confirmed that the application correctly detailed the requirements of Rule 65(a) of the Procedure Rules.

(b) Section 65 (b) states that the application must be accompanied by the following documents:-

(i) The Tenancy Agreement (if available).

A copy of the lease had been provided.

(ii) A copy of the notice of intention to raise proceedings for possession of a house let on an assured tenancy.

A copy of form AT6 had been provided. The form was dated 21st January 2025 and stated that proceedings would not be raised before 24th March 2025 . The ground on which the Landlords were seeking possession is ground One of Schedule 5 of the Housing (Scotland) Act 1998.

(iii) A copy of the Notice to Quit served by the Landlord on the Tenant (if applicable).

A copy of the Notice to Quit had been provided.

(iv) Evidence as the applicant has that the possession ground or grounds have been met.

The Application stated that the Applicants lived in the Property as their only or principal home.

(v) A copy of the section 11 Notice given to the Local Authority by the Landlord.

A copy of the section 11 Notice had been provided.

(c) The application form had been correctly signed and dated by the Applicants' Representative, as required by Section 65(c) of the Procedure Rules.

10.6 Requirements of Sections 18 and 19 of the Housing (Scotland) Act 1988

10.6.1 The Tribunal found that a valid AT6 notice had been served on the Respondent giving him more than two months notice that the Landlord intended to apply for an Order for Possession on Ground 1 of Schedule 5 of the Housing (Scotland) Act 1988 and the Notice had been validly served on the Respondent by Sheriff Officer on 23rd January 2025.

10.6.2 The Tribunal acknowledged that the Applicant was seeking possession under Ground 1(a) of Schedule 5 of the Housing (Scotland) Act 1988, which is in the following terms:

'Not later than the beginning of the tenancy the landlord (or, where there are joint landlords, any of them) gave notice in writing to the tenant that possession might be recovered on this Ground or the First-tier Tribunal is of the opinion that it is reasonable to dispense with the requirement of notice and (in either case)—

(a) at any time before the beginning of the tenancy, the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them occupied the house as his only or principal home.'

10.6.3 The Tribunal accepted that the Landlord had given notice in writing to the Tenant that possession might be recovered on Ground One as this was set out in the tenancy agreements between the parties dated 1st December 2006, 2nd April 2008 and 2nd August 2010.

10.6.4 The Tribunal have to determine if one of the Landlords occupied the Property as their only or principal home before the beginning of the tenancy. In relation to this point the Tribunal make the following findings in fact:

(i) The Applicants purchased 55 (1F3) Logie Green Road, Edinburgh on 18th June 2004.

(ii) The Applicants have owned Brumerfit Farm, North Kessock since 1988.

(ii) Between 2004 and 2005 Bryan Beattie worked in Edinburgh.

(iii) Between June 2004 and the summer of 2005 Bryan Beattie resided at 55 (1F3) Logie Green Road, Edinburgh during the week and returned to Brumerfit Farm, North Kessock at the weekends.

(iv) Bryan Beattie's family they did not reside with him at 55 (1F3) Logie Green Road, Edinburgh (other than occasional visits) and they remained resident at Brumerfit Farm, North Kessock.

(v) Bryan Beattie did not change his registered address with his Doctor and Dentist to 55 (1F3) Logie Green Road, Edinburgh.

(vi) Bryan Beattie only altered his correspondence address to 55 (1F3) Logie Green Road, Edinburgh in relation to matters that related to that Property. His other correspondence was sent to Brumerfit Farm, North Kessock.

10.6.5 The question of whether or not a property is a Landlord's only or principal home has been considered in a number of cases. In the case of ***Roxburgh District Council v Collins 1991 SLT (Sh Ct) 49*** Sheriff Principal Nicholson concluded that regular or habitual residence was not a prerequisite and that the question that must be asked is whether on the facts of the case the person concerned has such a real, tangible and substantial connection with the house in question that it, rather than any other place of residence can properly be described as having been his only or principal home during the relevant period.

The case of ***R (on the application of Williams) v Horsham [2004] EWCA Civ 39*** is an English decision which provides some assistance. That case set out what has been called the "reasonable onlooker" test. At paragraph 26 of that decision, the Court of Appeal concluded;-

"sole or main residence' refers to premises in which the taxpayer actually resides. The qualification 'sole or main' addresses the fact that a person may reside in more than one place. We think that it is probably impossible to produce a definition of 'main residence' that will provide the appropriate test in all circumstances. Usually, however, a person's main residence will be the dwelling that a reasonable onlooker, with

knowledge of the material facts, would regards as that person's home at the material time.”

10.6.6 The Tribunal considered that the onlooker test and the extent of the person's connection with the Property are reasonable tests to apply.

10.6.7 The Tribunal acknowledged that the Appellant had two residences between 2004 and 2005. They are 55 (1F3) Logie Green road, Edinburgh and Brumderfit Farm, North Kessock.

10.6.7 It is the Appellants' position that 55 (1F3) Logie Green Road, Edinburgh was Bryan Beattie's principal residence between June 2004 and the summer of 2005 as during this period he resided in the Property when he was working in Edinburgh and only resided at Brumderfit Farm, North Kessock during the weekends.

10.6.8 The Tribunal accept Bryan Beattie's evidence that he resided at 55 (1F3) Logie Green Road, Edinburgh between June 2004 and the summer of 2005 during the week but they were not persuaded that this was sufficient for 55 (1F3) Logie Green Road, Edinburgh to become Bryan Beattie's principal residence. The Tribunal determine that Bryan Beattie had a more tangible and substantial connection with his Property at Brumderfit Farm, North Kessock. This was where the majority of his correspondence was sent, including letters from his bank; it where he was registered with his Doctors and Dentist and it was where his immediate family resided.

Applying the onlooker test the Tribunal determine that a reasonable onlooker would conclude that 55 (1F3) Logie Green Road, Edinburgh was Bryan Beattie's 'digs' whilst he was working in Edinburgh and it was not his principal residence. If Bryan Beattie had considered the Edinburgh Property to be his principal residence he would have arranged for all of his correspondence to be sent to the Edinburgh address and he would have changed his registered address with his Doctor and Dentist to the Edinburgh address.

10.6.9 The Tribunal determine that Bryan Beattie's principal home between 2004 and 2005 was not 55 (1F3) Logie Green road, Edinburgh but it was his Property at Brumderfit Farm, North Kessock.

10.6.10 Consequently, the Tribunal do not find that the requirements of Ground 1A of Schedule 5 of the Housing (Scotland) Act 1988 have been met and refuse the application.

11. 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.

J Taylor

Legal Member

13th March 2026