



2026UT17

Refs: UTS/AP/25/0154

DECISION OF

Sheriff Jillian Martin-Brown

ON AN APPLICATION FOR PERMISSION TO APPEAL

(DECISION OF UPPER TRIBUNAL FOR SCOTLAND)

IN THE CASE OF

David Cameron

Per Hughes Dowdall Foster

Appellant

- and -

Stewart Cameron

Respondent

FTS Case Reference: FTS/HPC/EV/23/3540

Forfar, 2 February 2026

Decision

Permission to appeal is REFUSED.

Reasons For Decision

Background

1. The respondent (Mr Stewart Cameron) applied for an order of possession upon termination of a short-assured tenancy. The short-assured tenancy commenced on 31 December 2013 and the notice to quit and section 33 notice sought to end the tenancy on 1 October 2023.
2. A case management discussion took place on 15 February 2024. Several evidential hearings were postponed for different reasons. An evidential hearing took place on 7 May 2025. On 19 August 2025, the First-tier Tribunal ("FTS") granted an order for possession with a deferred enforcement date of 18 November 2025.
3. The appellant applied to the FTS for permission to appeal its decision to the Upper Tribunal. The FTS determined that the proposed appeal did not make a point of law and refused permission to appeal on 11 November 2025.
4. The appellant submitted an application to appeal to the Upper Tribunal on 16 November 2025. Supplementary submissions were lodged on 10 December 2025. A permission to appeal hearing took place on 26 January 2026 by WebEx, attended by Mr Foster, Solicitor on behalf of the appellant and Mr Stewart Cameron, the respondent.

Grounds of Appeal

5. At the hearing on 26 January 2026, Mr Foster clarified that the appellant was no longer insisting on all the grounds of appeal detailed in his application of 16 November 2025 and his supplementary submissions dated 10 December 2025. Instead, the appellant sought leave to appeal on two grounds only as follows:
 - (i) whether the FTS erred in making a final determination without the need to hear further oral evidence and submissions; and
 - (ii) whether the FTS failed to take into account all the relevant evidence.

Submissions

6. In relation to ground (i), the appellant submitted that there were serious issues of credibility and reliability to be determined, which necessitated an oral hearing. The appellant did not get the opportunity to test the evidence of the respondent, nor his witnesses. He did not receive a fair hearing.
7. The respondent submitted that an oral hearing did take place on 7 May 2025. The appellant's solicitor claimed that he was unprepared but a number of previous evidential hearings had been postponed so the appellant had been given sufficient time to prepare.

8. In relation to ground (ii), the appellant submitted that no reasonable tribunal could have reached the conclusion that the respondent landlord was telling the truth. The appellant's written evidence was so overwhelming that no reasonable tribunal could have rejected it in favour of what the respondent landlord said. They did not take into account the appellant's independent expert evidence and instead relied on the respondent's affidavit evidence.
9. The respondent submitted that the evidential hearing on 7 May 2025 went on for over three hours. Questions were asked by both parties and expert reports were presented. The FTS took into account all of the evidence before it, which was sufficient to find in favour of the respondent. If anything, the respondent was at a disadvantage because the appellant's plumbing report was only produced at the hearing and was not intimated to the respondent in advance.

Decision

10. Beginning with ground (i), the FTS explained in its decision of 19 August 2025 that a case management discussion took place on 15 February 2024 (para. 3). An evidential hearing subsequently took place on 7 May 2025. After hearing oral evidence and submissions from the parties, as well as a submission from Mr Foster, it was *agreed* that written submissions would be lodged by Mr Foster on behalf of the appellant and thereafter the respondent would also lodge written submissions. It was further *agreed* that after all the submissions had been provided, the FTS would consider them, with all of the casefile papers, and, in the first instance, decide whether or not they could make a final determination without the need to hear further evidence and submissions (para. 4). The FTS convened on 19 August 2025 and, after considering all of the case papers, decided to make a decision without having to hear further oral evidence and submissions (para. 5).
11. It was therefore clear that an oral hearing *did* take place. Mr Foster's request to adjourn that hearing was refused but numerous previous hearings had been adjourned at the request of the appellant. Both parties were given time to lodge written submissions to supplement the oral submissions made at that oral hearing. Both parties consented to the FTS considering whether they could make a final determination thereafter without the need to hear further oral evidence and submissions. I therefore determined that both parties had received a fair hearing and I did not consider that the appellant had set out a basis as to how the FTS had erred in law and accordingly, refused this ground of appeal.
12. Turning to ground (ii), the FTS explained in its decision of 19 August 2025 that it *considered all* of the evidence and submissions (para. 11). In making its findings in fact, it *relied* on the evidence and submissions of both parties, particularly Mr Stewart Cameron Junior's affidavit of 14 December 2023 and Mr Foster's written submission (para. 12). In its decision of 11 November 2025, the FTS indicated that the available evidence was extensive and was considered and weighed in its entirety by the FTS in making its findings in fact and law. The FTS considered oral evidence as well as a

considerable volume of written evidence and submissions (para 20) in determining that the tenancy agreement was terminated on 1 October 2023.

13. It was therefore clear that the FTS took into account both the oral and written evidence as well as both the oral and written submissions. Whilst it was clear that the appellant disagreed with the findings of the FTS in relation to: (i) whether there was a need for the respondent's son to reside in the property; (ii) the necessity for repair works; and (iii) the nature of the appellant's interactions with his neighbours, I did not consider that he had set out a basis as to how the FTS had erred in law and accordingly, refused this ground of appeal.

Refusal of Permission

14. Permission can only be granted if there are arguable grounds of appeal on a point of law (section 46 of the Tribunals (Scotland) Act 2014). As that statutory test is not met in relation to either of the two grounds, permission is refused.

Sheriff Jillian Martin-Brown
Member of the Upper Tribunal for Scotland