



2025UT107

Ref: UTS/AS/25/0119

DECISION OF

Lord Duthie

**ON AN APPLICATION FOR PERMISSION TO APPEAL
(DECISION OF FIRST-TIER TRIBUNAL FOR SCOTLAND)
IN THE CASE OF**

EM
per Glasgow Disability Alliance

Appellant

- and -

Social Security Scotland
per Scottish Government Legal Directorate

Respondent

FTS Case Reference: FTS/SSC/AE/23/01603

29 December 2025

Introduction

[1] The appellant has COPD, asthma and high blood pressure. She has had multiple admissions to hospital with cerebral vascular symptoms. She has experienced chest infections, shortness of breath, vertigo and dizziness. She applied for Adult Disability Payment (“ADP”).



Social Security Scotland (“SSS”) found that she did not satisfy the eligibility criteria for an award of ADP, awarding her 2 points in respect of Daily Living Descriptor 4b and 4 points in respect of Mobility Descriptor 2b. She appealed to the First-tier Tribunal for Scotland (“FTS”), arguing that Daily Living Descriptors 1b or e, 2d, 3b, 4b or e, 5b, 6b or 9c and Mobility Descriptors 1d and 2f were engaged. The FTS, by decision dated 25 October 2024, refused the appeal, awarding the appellant 2 points in respect of Daily Living Descriptor 4b and 4 points in respect of Mobility Descriptor 2b. The FTS’s findings in fact are set out at paragraphs 2 to 23 of its decision. Its reasons are set out at paragraphs 24 to 28.

[2] The appellant seeks permission to appeal to the Upper Tribunal. At a hearing on the application she was represented by Mr MacCorquodale of Glasgow Disability Alliance. SSS were represented by Ms Hughes.

Grounds of appeal

[3] Mr MacCorquodale advanced the following proposed grounds.

[4] The FTS accepted that the appellant is permitted to use a chair in the workplace but gave inadequate reasons as to why she would need an aid for her work activities but not for Daily Living Activities such as preparing food or getting dressed. The FTS failed to use its inquisitorial powers regarding this.

[5] The FTS rejected the appellant’s oral evidence, preferring statements on her application form. The appellant explained that she struggled to fill in the form. She only received assistance from Glasgow Disability Alliance at the point of seeking a reconsideration. Inadequate reasons are given for the FTS placing significant weight on the application form despite the explanation of her difficulties completing it.



[6] The FTS state at paragraph 25 that the stated extent of the appellant's difficulties are inconsistent with someone who is in full-time employment and able and willing to travel abroad for a holiday. Inadequate reasons were given for the conclusion that someone employed with reasonable adjustments and able to go on holiday cannot meet the criteria for an award of ADP

Decision

[7] At paragraph 26, the FTS found that while the appellant may use the aids to which she refers in her evidence, use of aids is not reasonably required. That is a decision which was open to the FTS on the evidence before it. The question of whether an aid is reasonably required is one of fact and degree for the FTS. The fact that she uses a seat when working in a factory does not of itself mean that a chair is reasonably required for Daily Living Activities.

[8] A failure by the FTS to make sufficient factual findings to support its decision or a failure to provide proper and adequate reasons for its decision would amount to a failure in law. Reasons must address the substantial issues in dispute in an intelligible way, leaving the informed reader in no real and substantial doubt as to why the decision was made: *Wordie Property Co Ltd v Secretary of State for Scotland* 1984 SLT 345. Reasons do not need to cover every point or every piece of evidence, but they must address the substantial issues. In an ADP appeal, those issues will usually include the descriptors in dispute: *CB v SSS* 2025 UT 63 at [7]. The decision must be read fairly and as a whole, recognising that it is addressed to parties familiar with the case: *KW v SSS* 2024 UT 65 at [15].

[9] In the instant case, the reasons given by the FTS for its decision are adequate. They leave the informed reader in no real and substantial doubt as to why the decision was made and what material considerations were taken into account. Assessment of a person's credibility is squarely a matter for the FTS as finder in fact. The FTS was not bound to accept the appellant's disavowal of her claim form.



[10] The FTS gave a detailed explanation in paragraph 25 as to why it did not accept her oral evidence, including prior inconsistent statements in her claim form and the lack of supporting material in her medical records (noting that she sees her GP “quite often”). It preferred the statements on the appellant’s claim form to her oral evidence at the hearing, finding that the stated extent of her claimed difficulties was inconsistent with someone who is in full-time employment and able and willing to travel for a holiday. The FTS also relied on the appellant’s GP records, noting the absence of any concern regarding weight or low mood. At paragraph 27, the FTS deals with the appellant’s breathing difficulties, finding her evidence inconsistent with the treatment received from her GP with whom, the FTS notes, she is in contact quite often. It was open to the FTS to reject her oral evidence. No cognitive disability or mental health issue was put in issue to suggest she was incapable of completing her claim form accurately. The FTS gave adequate reasons for its decision and no arguable error of law arises.

[11] There is here no arguable error of law in respect of a failure to use inquisitorial powers. There are cases where it may be necessary for the FTS to consider exercising procedural powers available to it before determining the appeal. However, in many cases, documents already lodged with the FTS will be sufficient to enable it to determine the case fairly and justly. In *NB v SSS* [2023] UT 35, the Upper Tribunal made clear that the circumstances in that case which gave rise to such an error of law were unusual, by setting out the particular facts and circumstances which led to the conclusion that the FTS erred in law in failing to consider exercising its procedural powers before reaching its decision, by stressing that it was the particular circumstances of that case which led to the outcome and repeatedly using wording such as “in this particular case” (paragraphs 20 and 23). The instant case is not such a case. There is no comparable gap in the available evidence and there was sufficient evidence before and adduced by the FTS, both written and oral, to allow it to determine the appeal fairly and justly.

[12] As for the proposed ground of appeal that inadequate reasons were given for the conclusion that someone employed with reasonable adjustments and able to go on holiday cannot



meet the criteria for an award of ADP, this ground is based on a misreading of the FTS's decision. Fairly read, the FTS did not treat full-time employment or foreign travel as determinative. However, that does not mean either are irrelevant when assessing the extent of the appellant's functional limitations. No arguable error of law arises.

Conclusion

[13] No arguable error of law has been identified. Permission to appeal is refused.

Lord Duthie
Member of the Upper Tribunal for Scotland