



DECISION OF

2026UT73
Ref: UTS/AP/26/0048

Sheriff J Martin-Brown

**ON AN APPLICATION TO APPEAL
IN THE CASE OF**

Langah Limited

Appellant

- and -

Mr Mohammed Riaz & Ms Mariyam Ahmed

Respondents

(FTS Case Reference: FTS/HPC/EV/24/5534)

Forfar, 4 September 2026

Decision

The appeal is refused. The decision of the First-tier Tribunal for Scotland Housing & Property Chamber is upheld.

Reasons for Decision

Background

1. The appellant (Langah Limited) made an application for an eviction order, which was refused on 20 January 2026. The appellant also made an application for payment of rent arrears against the appellant under a private residential tenancy agreement (FTS/HPC/CV/24/4960), which was granted in the sum of £8,554 on 20 January 2026.



2. Only the eviction order case was appealed by Langah Limited. The First-tier Tribunal for Scotland (“FTS”) considered five grounds of appeal and granted permission to appeal in respect of one ground on 27 February 2026:
 - (iii) the Tribunal erred by placing significant weight on the potential homelessness of the second respondent and her children.
3. The FTS refused permission to appeal in respect of the remaining four grounds.
4. The appellant sought leave to appeal from the Upper Tribunal on the four additional grounds. Permission was refused on 24 June 2026.
5. An appeal hearing took place on 31 August 2026 by WebEx, attended by Ms Olga Rashevskiaia on behalf of the appellant and by the second respondent.

Submissions

6. The appellant submitted that the FTS had erred by placing decisive weight on the potential homelessness of the second respondent and her children, without properly balancing that factor against the seriousness and duration of the respondents’ breach of her tenancy agreement. It failed to assess whether the risk of homelessness arose, at least in part, due to the second respondent’s financial and housing decisions, including prolonged non-payment of rent, prioritisation of other financial obligations and failure to take reasonable steps to mitigate the risk of eviction. The payments made were reactive and commenced only after the initiation of tribunal proceedings. There was no reliable basis to conclude that future payments would be sustained. In all the circumstances, the FTS failed to conduct a proper balancing exercise, failed to provide adequate reasons and reached a decision which was not reasonably open to it on the evidence before it.
7. The second respondent submitted that the property was close to her children’s school and she had been unable to find any other suitable accommodation in the area. She was trying her best to maintain payments towards rent and arrears. She did not earn much in her employment and had been off sick recently. Since the FTS decision of 20 January 2026, the rent had increased from £1,150 per month to £1,250 per month but she was unable to pay more than £1,300 per month. That meant that only £50 was going to awards arrears each month, rather than £150. At the time of the FTS decision, she had anticipated her student loan would have been paid off in seven to eight months but now she did not know how long it would take to pay it off. The appeal proceedings were making her feel depressed.



Decision

8. I had considerable sympathy for the appellant's position. The arrears were assessed at £8,554 on 20 January 2026 and would take almost five years to pay off at a rate of £150 per month. However, an appeal on the merits of the case was not available to the appellant. The only basis for an appeal in terms of section 46 of the Tribunals (Scotland) Act was on a point of law.
9. In assessing whether it was reasonable to grant an eviction order, the FTS made reference to the approach in *Cumming v Danson* [1942] 2 All ER 653 and the requirement to take into account all relevant circumstances as they existed at the time of the hearing. The FTS took into account that the arrears appeared significant but also that they equated to eight months' arrears. It determined that comparatively speaking, the sum outstanding was not excessive (para. 18).
10. The FTS gave considerable weight to the level of arrears but not so much that it was determinative. It also took into account that the second respondent had been making sufficient monthly payments to clear the monthly rent since August 2025 and had made modest payments towards arrears (para. 19). It determined that the best chance of recovery of the arrears likely rested in the respondent's continued occupation of the property and continuing payments (para. 22).
11. The FTS also took into account that the second respondent was not entitled to state assistance for housing or other benefits so the granting of an eviction order would likely result in homelessness for her and her young children. It determined that factor carried the most weight (para. 23). It took into account that the second respondent appeared to have taken steps to address ongoing and historic liabilities and was satisfied that she intended to continue to do so (para. 24). It did not attach much weight to the appellant's local support network, local employment or desire not to disrupt her children's education, though they were acknowledged as relevant factors.
12. As far as the appellant was concerned, the FTS carefully considered the evidence about the impact of the arrears on its business and management of the property. It determined that the appellant did not demonstrate financial hardship or other pressing detriment that would render eviction reasonable when the respondent was paying monthly rent in full and making a payment towards arrears (para. 24).
13. I determined that the FTS was correct to apply the general principle outlined in *Cumming v Danson* that all relevant circumstances must be taken into account as they existed at the time of the hearing. I also determined that the FTS was correct to identify that the level of arrears and the likely homelessness of the second respondent and her young children were the factors which carried the most weight. The balancing exercise carried out, which



ultimately attached more weight to homelessness than the level of arrears, was a delicate exercise. While I accepted that the scales might have been tipped in favour of eviction before a differently constituted tribunal, I did not consider that no reasonable tribunal would have decided against eviction. On the contrary, it was reasonable to do so where the monthly rent was being made in full, a regular payment was being made towards arrears and no financial hardship had been demonstrated on the part of the appellant. Separately, while the scales might now be tipped in favour of eviction in light of the appellant's failure to pay off her student loans and increase the amount paid towards arrears, those circumstances did not exist at the time of the hearing on 20 January 2026.

14. I determined that the FTS conducted a proper balancing exercise; explained the factors that it took into account and the weight attached to each of them in detail; and reached a reasonable decision in all the circumstances. 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.

*A party to this case who is aggrieved by this decision may seek permission to appeal to the Court of Session on a point of law only. A party who wishes to appeal must seek permission to do so from the Upper Tribunal within **30 days** of the date on which this decision was sent to him or her. Any such request for permission must be in writing and must (a) identify the decision of the Upper Tribunal to which it relates, (b) identify the alleged error or errors of law in the decision and (c) state in terms of section 50(4) of the Tribunals (Scotland) Act 2014 what important point of principle or practice would be raised or what other compelling reason there is for allowing a further appeal to proceed.*

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