



DECISION OF NIGEL ROSS

On an application for permission to appeal (decision of First-tier Tribunal for Scotland)

in the case of

Ms Katie Affleck, Flat 2F2, 59 Forrest Road, EDINBURGH, EH1 2QP

Appellant

and

First-tier Tribunal for Scotland Housing and Property Chamber, Glasgow  
Tribunals Centre, 20 York Street, Glasgow, G2 8GT

- and -

Mr Chris Bronsdon and Mrs Sarah Bronsdon, The Old Castle, East Saltoun, East  
Lothian, Near Pencaitland, Tranent, EH34 5DY

Respondent

**FTT Case Reference FTS/HPC/TE/18/2661**

16<sup>th</sup> May 2019

**Decision**

[1] Leave to appeal is refused.

[2] The appellant repeats submissions already made to the FtT. An appeal is not a second chance to present evidence, or a rehearing. An appeal is only possible where there is a clear error in the assessment of evidence by the FtT, or an error in law. The FtT decision sets out the evidence for both parties and explains the inferences and findings

arising from that evidence. No error is evident.

[3] The fact that the appellant disagrees does not justify an appeal: it is the task of the FtT to make findings on the basis of the whole evidence from both sides, both written and verbal, not just the items relied upon by the appellant. The legal member did not “take the case”, but rather heard the case to decide whether a lease had been agreed. The fact the case was heard does not prove that a lease exists. The legal member required to decide which case was more credible, and to explain her findings. She did so. That finding was part of her function, and is explained by her on the evidence heard. The complaint that she proceeded by questioning both parties is simply a description of the correct function of a tribunal member. No ground of appeal arises from any of these points.

Nigel Ross  
Member of the Upper tribunal for Scotland

16 May 2019