



DECISION OF

THE HON. LORD FAIRLEY

**ON AN APPEAL
IN THE CASE OF**

LK

per North Lanarkshire Council First Stop Shop Tackling Poverty Team

Appellant

- and -

Social Security Scotland,
per Anderson Strathern

Respondent

FTS Case Reference: FTS/SSC/AE/23/00244

(Appeal decided on the papers)

17 February 2025

Decision

In terms of regulations 11(1)(c)(i) and 11(5)(b) of the Disability Assistance for Children and Young People (Scotland) Regulations, 2021, the appellant is entitled to receive the care component of Child Disability Payment in respect of the child, E, at the **middle** rate for the period 8 July 2022 to 8 April 2025.

Reasons



1. This is a decision on disposal of the appeal which is supplementary to my decision on the merits of the appeal dated 24 January 2025. It should be read together with that previous decision.
2. Ultimately, neither party insisted upon an oral hearing on the question of whether the claim should be remitted to a new tribunal or determined by me on the basis of the findings in fact made by the FTS.
3. I have concluded that, on the basis of the findings in fact made by the FTS, only one conclusion is possible. A remit to the FTS is not necessary, and it is appropriate for the claim should to be determined by me.
4. On the basis of findings in fact made by the FTS, the provision of ‘small things’ to E cumulatively account for a significant proportion of each day. The only possible reason for that would be if the small things provided to her were the product of frequent attention throughout the day. On a correct application of the law, and for the reasons set out in my decision of 24 January 2025, that leads inevitably to a conclusion that the appellant is entitled, in terms of regulations 11(1)(c)(i) and 11(5)(b) of the Disability Assistance for Children and Young People (Scotland) Regulations, 2021, to receive Child Disability Payment care component in respect of E at the **middle** rate.
5. No challenge was made to the determination by the FTS of the period of the relevant award. It will therefore be made for the period from 8 July 2022 to 8 April 2025.

*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.*

Member of the Upper Tribunal for Scotland