



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/18/0882

Re: Property at 9 Salmon Inn Park, Polmont, Falkirk, FK2 0JQ (“the Property”)

Parties:

**Mr Andrew Ivor Vince, Mrs Lynda June Ramsay Vince, 15417 Bay Vista Drive,
Clermont, FL34717, United States (“the Applicants”)**

**Mr Christopher Easton, Ms Susan Fleming, 9 Salmon Inn Park, Polmont,
Falkirk, FK2 0JQ (“the Respondents”)**

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an Order for Payment is granted against the
Respondents in the sum of SEVEN THOUSAND THREE HUNDRED AND
EIGHTY POUNDS (£7380) STERLING**

- **Background**

An application was made to the Tribunal by the Applicants under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”), dated 12 April 2018. The Application sought an Order for Payment against the Respondents in the sum of SEVEN THOUSAND THREE HUNDRED AND EIGHTY POUNDS (£7380) sterling.

- The Case Management Discussion

A Case Management Discussion took place on 16 August 2018. Mr Miller of McEwan Fraser appeared on behalf of the Applicants. There was no appearance by or on behalf of the Respondents.

The first-named Respondent, Mr Christopher Easton, had emailed the Tribunal office at 14.18pm on 15 August 2018. The email advised that he wished to request an adjournment of the Case Management Discussion as he had just started a new job and was unable to get time off at short notice. Mr Miller submitted on behalf of the Applicant that he opposed the request for an adjournment. The Respondents had been served with the papers on 19 July 2018 and had made no contact at all since then, nor had they made any representations to the Tribunal as regards their position on the application. Given the level of arrears accrued, and the lack of any contact up to now, it would be unfair on the Applicants to delay matters further.

The Tribunal considered the request by Mr Easton under Rule 28 of the Regulations. The Tribunal was satisfied that there was no good reason shown as to why an adjournment was necessary. Taking into account Mr Miller's submissions and the length of time which had passed since service of the papers which would have allowed either the second-named Respondent to appear personally, or both parties to arrange alternative representation, the adjournment request was refused.

Mr Miller submitted that the Applicants had previously used a letting agent to arrange the lease between the parties. That letting agent was no longer in business and had advised that he held no paperwork whatsoever to do with the tenancy between the parties. There was no evidence that any written tenancy had ever actually been entered into. Accordingly, the Applicants were treating the tenancy between the parties as being a statutory assured tenancy.

Mr Miller moved for the Order for Payment to be granted. He submitted that the tenancy had commenced on or around December 2012. The Respondents had been obliged to pay the sum of £700 per calendar month in rent, and had done so up until on or around 2015 at which point arrears started to accrue. It was submitted that there had been no further payment of rent since the application had been lodged and the arrears had risen by a further £3500.

Mr Miller moved for an Order for Payment to be granted in the increased sum of £10,880, being the level of arrears outstanding at the date of the Case Management Discussion.

- Findings in Fact

1. The parties entered into an assured tenancy which commenced on or around 22 December 2012.
2. The Respondents were obliged to pay rent of £700 per month
3. The Respondents had accrued arrears of rent amounting to £7380 at the date of the Application.

- Reasons for Decision

The Tribunal refused the motion to increase the sum sought to £10,880. The Tribunal considered that this constituted an amendment to the Application under Rule 13 of the Regulations and accordingly in the absence of the Respondents, this would require further intimation on the Respondents before such an amendment could be considered by the Tribunal.

The Tribunal was satisfied that the Respondents were due to pay to the Applicants the sum of £7380, being the sum sought in the Application.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) determined that an Order for Payment is granted against the Respondents in the sum of SEVEN THOUSAND THREE HUNDRED AND EIGHTY POUNDS (£7380) STERLING

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Fiona Watson

Legal Member/Chair

Date

16/8/18