

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

---



**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/EV/18/0879**

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

**Parties:**

**Mr Andrew Ivor Vince, Mrs Lynda Jane 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; 9 Salmon Inn Park, Polmont, Falkirk, FK2 0JQ ("the  
Respondents")**

**Tribunal Members:**

**Fiona Watson (Legal Member)**

**Decision (in absence of the Respondents)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the  
Tribunal") determined that an order is granted against the Respondents for  
possession of the Property under section 18 of the Housing (Scotland) Act  
1988.**

- **Background**

An application was made to the Tribunal by the Applicants under Rule 65 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 Repossession of the Property under Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988, in that the Respondents had accrued arrears of rent amounting to at least three months.

- 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 Repossession to be granted. He 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 submitted that Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 had been established, in that there had been at least three months of arrears of rent at the date of service of the Form AT6, and there continued to be at least three months' arrears of rent 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.
4. The Respondents were in arrears of rent amounting to at least £5600 at the date of service of the AT6. This is an equivalent to at least 8 months' rent.

5. The Respondents were in arrears of rent amounting to at least £7380 at the date of the Case Management Discussion. This is an equivalent to at least 10 months' rent.

- Reasons for Decision

The Tribunal was satisfied that Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 had been established, in that there had been at least three months of arrears of rent at the date of service of the Form AT6, and there continued to be at least three months' arrears of rent at the date of the Case Management Discussion.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) determined that an order is granted against the Respondents for possession of the Property under section 18 of the Housing (Scotland) Act 1988.

### 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