

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 51 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/25/2442

Re: Property at 51 Moat View, Roslin, EH25 9NZ (“the Property”)

Parties:

The Right Reverend John Armes, The Very Reverend Frances Burberry; Ms Philippa Snell; Mr Gavin McEwan, The Scottish Episcopal Church, 21 Grosvenor Crescent, Edinburgh, EH12 5EE, in their capacity as The Trustees of The Collegiate Church of St Matthew, commonly known as Rosslyn Chapel, Roslin (“the Applicants”)

Mr Michael Corry, Mrs Audrey Corry, 51 Moat View, Roslin, EH25 9NZ; 51 Moat View, Roslin, EH25 9NZ (“the Respondents”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mrs M Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted

Background

1. This is a Rule 109 application whereby the Applicants are seeking an eviction order under ground 7. The Applicants’ representative lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 1st July 2020, a notice to leave with evidence of service, a section 11 notice with evidence of service, an affidavit, and a Title Sheet.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondents by Sheriff Officer on 17th October 2025.
3. By email dated 1st December 2025, the Respondents lodged written representations.

The Case Management Discussion

4. A Case Management Discussion ("CMD") took place by telephone conference on 9th December 2025. Mr Fargison, Solicitor, represented the Applicants. Mr Michael Anthony Fitchett, Vestry Secretary, was also in attendance. The Respondents were both initially in attendance, but Mr Corry left shortly after the CMD commenced, and Mrs Corry represented both Respondents thereafter.
5. Mr Fargison said the Applicants were seeking an eviction order with enforcement delayed to 23rd January 2026. The Applicants initially intended to sell the Property, and notice to leave was served upon the Respondents on the ground. The Property is now required as a residence for the Priest in Charge.
6. Mr Fargison submitted it was reasonable to grant the order. Referring to the Respondents' representations stating that further time was required for their daughter to complete her preliminary examination, he submitted that delaying enforcement until the end of March 2026, as requested by the Respondents, would be unreasonable. The Applicants are required to pay rent for the property in which the Priest in Charge resides, and the rent has increased from £1800 per month to £1950. The Property is only realising £650 rental income each month. This means there is a considerable net loss for the Applicants. The Respondents have been on notice since 2022 when the first notice to leave was served. The notice to leave in respect of this application was served almost a year ago. The Respondents would not be considered intentionally homeless if the order was granted, as it is a non-fault ground of eviction.
7. Mr Fitchett explained that the Property was purchased in 1977, and was occupied by a priest until around 1997, when the priest retired. Thereafter, priests taking up position were on a third stipend and had their own accommodation, so the Property was let out. The Respondents took up occupation on an assured tenancy in or around 2005. The Priest in Charge is on a 75% stipend and requires accommodation in the area. Rental costs of accommodation in the area are between £1500 and £2000 per month.
8. Mrs Corry said the Respondents are not opposing the order. They have been looking for accommodation in the area, but the monthly rental for private lets is too high. The Respondents have been in touch with the local authority, and they have a meeting the day after the CMD. The Respondents have been told they are likely to get temporary accommodation if an order is granted. Mrs Corry said they would prefer social housing to a private let, as it would be more affordable. Mrs Corry said her daughter's prelims extend into January. The Respondents would wish to move before their daughter's exams. Mrs Corry said, although they had asked for an extension until the end of March, even the end of February would suffice.
9. Mr Fargison submitted that, if an order was granted with enforcement delayed to 23rd January 2026, there would be a further period of charge of two weeks, thus delaying eviction further.

Findings in Fact and Law

10.

- (i) The Applicants are the Trustees of The Collegiate Church of St Matthews, commonly known as Rosslyn Chapel.
- (ii) The Property was purchased in or around 1977 by the Applicants to be used as a residence for the Priest in Charge.
- (iii) In or around 1997, the Property was no longer required as a residence for the Priest in Charge, and the Applicants let the Property.
- (iv) Parties entered into an assured tenancy in respect of the Property which commenced in or around 2005.
- (v) Parties entered into a private residential tenancy in respect of the Property which commenced on 1st January 2020.
- (vi) Notice to leave has been served upon the Respondents.
- (vii) The Property is held for the purpose of being available for occupation by a person engaged in the work of a religious denomination as a residence from which the duties of such a person are to be performed.
- (viii) The Property has previously been occupied by a person engaged in the work of a religious denomination as a residence from which that person's duties were performed.
- (ix) The Property is now required as a residence for the Priest in Charge.
- (x) It is reasonable to grant an eviction order.

Reasons for Decision

11. Ground 7 of Schedule 3 of the Act provides that it is an eviction ground that the let property is required for use in connection with the purposes of a religion. The Tribunal may find that the ground applies if the let property is held for the purpose of being available for occupation by a person engaged in the work of a religious denomination as a residence from which the duties of such a person are to be performed, the property has previously been occupied by a person engaged in the work of a religious denomination as a residence from which that person's duties were performed, the property is required for the said purpose, and the Tribunal is satisfied that it is reasonable on account of those facts to issue an eviction order. The Tribunal is satisfied that ground 7 applies.

12. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
13. The Applicants require the Property for the Priest in Charge. They are paying a large sum of money in rent for the Priest's current accommodation, and will save a considerable sum if the order is granted and the Priest can reside in the Property, which was originally purchased for that purpose. The Respondents are not opposed to the order being granted. They have been attempting to find alternative accommodation and are in discussion with the local authority. They are likely to be considered unintentionally homeless and allocated accommodation if an order is granted.
14. The Tribunal considered it was reasonable to grant the order sought.
15. The daughter of the Respondents is currently undergoing preliminary examinations, which will extend into January. The Tribunal considered it important that the Respondents' daughter has the stability of a settled home while she is completing her examinations. The Tribunal noted that the Respondents would wish to move before their daughter's full examinations in the Spring. The Tribunal considered that delaying enforcement to 23rd January 2026, even with a further period of two weeks, would be likely to cause stress to the family, and, particularly, to the Respondents' teenage daughter. The Tribunal considered it was reasonable to delay execution of the order until the end of February to allow the Respondents' daughter to complete her preliminary examinations, and to allow the family to be allocated housing in good time before the full examinations commence.

Decision

16. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 28th February 2026.

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.

H. Forbes

Legal Member/Chair

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9th December 2025
Date