



**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/21/0847**

**Re: Property at The Manse, Neilston Road, Neilston, Glasgow, G78 3NP (“the Property”)**

**Parties:**

**Church of Scotland General Trustee, 121 George Street, Edinburgh, EH2 4YR (“the Applicant”)**

**Stephanie Start, The Manse, Neilston Road, Neilston, Glasgow, G78 3NP (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.**

**Background**

1. An application was received by the Housing and Property Chamber. It was dated 6<sup>th</sup> April 2021. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Applicant exercising ground 7 of the Private Housing (Tenancies) Act 2016.
2. The application included:-
  - a. Copy Scottish Government Model Private Residential Tenancy Agreement with commencement of tenancy being 1<sup>st</sup> May 2020;

- b. Notice to Leave signed 2<sup>nd</sup> October 2020 stating an application would not be submitted to the Tribunal before 6<sup>th</sup> April 2021;
  - c. Section 11 notice noting proceedings would not be raised before 6<sup>th</sup> April 2021 with email service on 6<sup>th</sup> April 2021;
  - d. Copy email dated 2<sup>nd</sup> October 2020 serving Notice to Leave upon the Respondent; and
  - e. Copy of letter from Church of Scotland Clyde Presbytery regarding the intention for the Property to be used as a manse;
3. The Tribunal also had before it a copy of the title deeds for the Property.
  4. On 18<sup>th</sup> May 2021, all parties were written to with the date for the Case Management Discussion (“CMD”) of 21<sup>st</sup> June 2021 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 8<sup>th</sup> June 2021.
  5. On 19<sup>th</sup> May 2021, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent personally. This was evidenced by Certificate of Citation dated 19<sup>th</sup> May 2021.

#### The Case Management Discussion

6. A Case Management Discussion was held on 21<sup>st</sup> June 2021 at 2pm by teleconferencing. The Applicant was represented by Miss Susan Killean, The Church of Scotland Legal Department. The Respondent was present and represented herself.
7. Miss Killean submitted that the Applicant’s position remains that the order for eviction is being sought. The Congregation have now called a minister. He is currently in temporary accommodation in a two bedroom flat with two children and a new baby expected in July. One of his children has a disability. He has been able to enrol his daughter at the local school but requires to live in the village to ensure the space is retained for her at the start of the new term in August. He does not drive and requires an hour bus ride to get to his parish. This can be tricky on a Sunday as there are often cancellations which affects his ability to do his job. This eviction proceedings has brought distress to the congregation. The Church of Scotland is not in a position to buy another property for the minister. The previous minister lived at the Property but moved out in October 2018. It has been let out since. Miss Killean explained that when a minister leaves there is a long consultation process to determine if it is appropriate to call another minister or if congregations can be joined or boundary lines moved. When the Respondent undertook the lease the process to appoint a new minister had already begun. This can be a lengthy process. However, it had been incorrect for this property to be let on the basis of it being available for a long time. It was always the intention to return it to a manse once a minister had been called. Part of the call is that the manse will be available for the new minister to live in. Miss Killean was not able to confirm why the Respondent was told it would be a long term let. She put forward that the

Property was let on 1<sup>st</sup> May 2020. It would have been arranged in April 2020 which was at the start of the Covid 19 pandemic. Workers were getting settled into working from home which may have resulted in the confusion.

8. The Respondent noted that she was greatly frustrated at the situation. She was not in a position to oppose the granting of the Order. She advised that she has 4 children with disabilities. She is struggling for her local council to rehouse her as they do not have 5 bedroom properties. She had consolidated her savings to put into moving into the house and buying for it. She was shocked to receive the Notice to Leave after 5 months. She now has great concerns about where she will go with her children.
9. The Tribunal noted what both parties had told them. The application is in accordance with the law. While the Respondent has raised issues regarding reasonableness it does not negate the Applicant's position that the current minister is in position, is in a overcrowded property and not able to undertake his ministerial duties fully without the accommodation. The Order was granted.
10. The Respondent would like to see if the Applicant would be in a position to help her move. Miss Killean offered to forward any email to the correct person within the Church of Scotland regarding this point if the Respondent emails her directly.

#### Findings and reason for decision

11. A Private Rented Tenancy Agreement commenced 1<sup>st</sup> May 2020.
12. The Property has been a manse prior to being let out for private residential tenancies. It was let due to there being no incumbent minister at the time the previous minister left.
13. At the point that the Property was let to the Respondent the parish had already started the recruitment process for a new minister.
14. A minister has been appointed or "called" to work in that parish. Part of his call is that he is to occupy the manse. Not being able to occupy the manse impinges upon his performance of his duties. He is currently in an overcrowded flat some distance from his parish.

#### Decision

15. The Tribunal found that ground 7 has been established and granted an order in favour of the Applicant and that it was reasonable to do so.

## 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.

Gabrielle Miller

21<sup>st</sup> June 2021

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Legal Member/Chair

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Date