



**Decision with Statement of Reasons of H Forbes, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")**

**Chamber Ref: FTS/HPC/RP/23/3041**

**Re: Property at 10 Stirling Square, Stornoway, HS1 2PR ("the Property")**

**Parties:**

**Dr Charles Wilson, 10 Stirling Square, Stornoway, HS1 2PR ("the Former Tenant")**

**Mrs Barbara Louisa MacDonald; Mr Allan MacDonald, 3a Steinish, Isle of Lewis, HS2 0AA; and Mr Andrew Duncan MacDonald, Conis, 3 Maryhill, Stornoway, Isle of Lewis, HS2 0DG ("the Landlords")**

**Tribunal Members:**

**Ms H Forbes (Legal Member)  
Mrs S Hesp (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be dismissed on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c) of the Procedural Rules.**

**Background:**

1. The Former Tenant made an application under section 22(1) of the Housing (Scotland) Act 2006 ("the Act") dated 1<sup>st</sup> September 2023.
2. The application was accepted by a legal member of the Tribunal with delegated powers of the Chamber President on 11<sup>th</sup> January 2024.
3. By email dated 10<sup>th</sup> March 2024, the Landlord Allan MacDonald stated that the tenancy ended on 5<sup>th</sup> January 2024.
4. At the request of the Tribunal and by email dated 18<sup>th</sup> March 2024, Allan MacDonald provided a letter of termination of the tenancy made on behalf of



the Former Tenant dated 6<sup>th</sup> December 2023, and giving notice of the Former Tenant's intention to vacate the Property on 5<sup>th</sup> January 2023 [sic].

5. The Tribunal indicated to the Landlords its intention to review the decision to accept the application, and invited the Landlords' views on whether the matter could proceed without a hearing.
6. By email dated 27<sup>th</sup> March 2023, Allan MacDonald stated that the Landlords were happy for the review to proceed without a hearing.
7. The Tribunal considered matters in terms of Rule 18. The Tribunal decided to make a decision without a hearing.
8. The Tribunal decided to set aside the decision of 11<sup>th</sup> January 2024 to accept the application, and make a decision of new.

#### **Reasons for the decision**

9. The application was lodged by the Former Tenant while he was the tenant, however, the application was not accepted before the tenancy ended. The application would not have been accepted had the Legal Member been aware that the tenancy had terminated on 5<sup>th</sup> January 2024. The Legal Member was not aware that this was the case. It was not competent to accept the application after the tenancy had ended, as, in terms of section 22(1) of the Act, an application must be made by a tenant.
10. There is good reason to believe it would not be appropriate to accept the application. The application is accordingly rejected.

#### **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.**

Helen Forbes

4<sup>th</sup> April 2024

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Legal Member/Chair

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Date