

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**Decision: Section 43 Tribunals (Scotland) Act 2014 and Rule 39 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended**

**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)**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) at its own instance reviewed the decision of 11<sup>th</sup> January 2024 to accept the Former Tenant’s application under section 22(1) of the Housing (Scotland) Act 2006 (“the Act”) and determined to set aside the decision to accept the application, and make a decision of new to refuse to accept the application.

**Background:**

1. The Former Tenant made an application under section 22(1) of 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**

9. The application was lodged by the Former Tenant while he was the tenant, however, it 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.
10. This Decision is not subject to appeal.

Helen Forbes

Legal Member/Chair  
4<sup>th</sup> April 2024