(2814)

LON/00AG/LAM/2006/0014

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON APPLICATIONS UNDER SECTION 20C OF THE LANDLORD & TENANT ACT 1985 & SECTION 24 OF THE LANDLORD AND TENANT ACT 1987

Applicant: Mr T Severin

Respondent: Mr J Wooller

Re: 10 Gilbert Place London WC1A 2JD

Application received: 1 August 2006

Hearing date: 19 October 2006

Appearances: Mr T Severin (Applicant)
Dr N Harte
Mr R McElroy (Canonbury Management)

Mr S Page (Free holder)

Members of the Leasehold Valuation Tribunal:

Mrs B M Hindley LLB
Mr I B Holdsworth
Mr R D Eschle JP MA BEd

1. This is an application for the appointment of a manager under Section 24 of the Landlord and Tenant Act 1987.
2. On 31 January 2005 a notice in accordance with Section 22 of the Act was sent, on behalf of three tenants to Mr J. Wooller, who holds a full repairing and insuring lease on the subject premises, expiring in 2058.
3. Prior to this date Mr Wooller had indicated, on service charge demands relating to the year ending 31 December 2004, that he no longer wished to be involved in the management of the building.
4. Mr Wooller had reiterated the same view on the service charge demands for the year ending 31 December 2005.
5. At the hearing Mr Page, a director of SGB Management Ltd, the freeholders of the subject property, said that he had taken over responsibility for the arrangement of the buildings insurance in April 2004. He also mentioned that Mr Wooller had not paid his last annual ground rent of some £22,000.
6. Having had sight of the notice and having been informed by Mr Severin, Dr Harte and Mr Page that no response had been received, the Tribunal was satisfied that it was appropriate for them to consider the application for the appointment of a manager.
7. Mr Severin, Dr Harte and Mr Page explained that the subject building was converted into seven self contained flats. Mr Severin occupied the top floor, Dr Harte the second floor, Mrs Borland the first floor and that there were two flats on the ground and two on the basement floors. These four were apparently leased to Mr Khan and presently unoccupied, one in the basement being the subject to an unfit for human habitation order made by the London Borough of Camden.
8. They described a total lack of maintenance since 1990 and the resulting dilapidated state of the building. A gas fired boiler, providing central heating to all seven flats and one radiator in the communal hallway, had been sited in the ground floor rear yard. However, an unauthorised extension to one of the ground floor flats (Flat 4), had resulted in the boiler being enclosed within that flat and being accessible only from that flat. After performing erratically for the last three winters it had finally broken down in the spring of 2006 and needed to be re sited and replaced.
9. For this reason in particular, as well as for the total failure of the long leaseholder to carry out his management functions or to enforce the covenants in the leases, the two leaseholders present asked for the appointment of a manager. They informed the Tribunal that Mrs Borland, who was presently in New Zealand, was also in agreement with the application and Mr Page, on behalf of the freeholders said that he, too, supported the application.
10. Mr McElroy produced an E. Mail which he had received from Mr Khan stating that he was 'happy.....for Canonbury Management to be appointed as the managing agents' but that he wanted confirmation that they would not be seeking any 'compensation' from him.
11. After the hearing the Tribunal inspected the subject building. They found it to be a double flat fronted, terraced - to second floor level with an exposed elevation above - building in a narrow street close to the British Museum. The stucco rendered front elevation had been painted white at ground floor level whilst the floors above remained the original cream which matched the neighbouring houses. Extensive rot was visible at pavement level in the window frames of the basement flats and damaged glazing was also allowing

water ingress there. The roof parapet wall had extensive fractures and was in generally dilapidated condition.

12. Inside the common parts were small and had clearly not been decorated for many years. There was a radiator in the ground floor hallway. Access to the basement was not possible because a door at the top of the stairs was locked. Access to the rear yard was no longer possible because the doorway had been removed.
13. From a window on a half landing it was possible to see the new flat roofed extension which now covered much of the rear yard and enclosed the boiler.
14. The Tribunal was satisfied from the evidence and their inspection that breaches of management obligations as specified in Section 24 (2)(a)(1) of the Act had occurred and that it was just and convenient in the circumstances to make an order for the appointment of a manager.
15. The Tribunal then considered the competence of the applicants' proposed manager, Mr McElroy of Canonbury Management, who attended the hearing.
16. Questioned by the Tribunal Mr McElroy said that his company, Canonbury Management, had been formed some three years ago. He was a non practising barrister with an investment background. His firm currently managed some 25 blocks of varying sizes. He had attended no RICS courses but expressed himself as familiar with the RICS Residential Management Code and the ARLA Code. He operated a client account in accordance with RICS prescribed procedures and had PII cover of £2million.
17. Whilst the Tribunal had some reservations because of Mr McElroy's lack of formal property qualifications and because this would be his first appointment as a manager, they gained some comfort from the fact that his offices were located very close to the subject property. Therefore, taking all the circumstances into consideration they were minded to appoint Mr McElroy as manager and receiver on receipt by the Tribunal of a draft agreement setting out the proposed terms of the appointment.
18. Provided that the Tribunal was satisfied with the terms of the draft agreement which the Tribunal had indicated to Mr McElroy, at the hearing, was required to be sent to them within the within the next seven days, a formal order specifying the particular concerns which the Tribunal would expect to see addressed during the period of the appointment, would then be issued and the appointment, which the Tribunal envisaged for a period of 18 months, would be made.

Chairman R A Hurdley

Date 27/10/06