

485



**FIRST - TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : **CHI/29UG/LRM/2014/0012**

**Property** : **22 Harmer Street, Gravesend  
Kent DA12 2AX**

**Applicant** : **22 Harmer Street RTM Co Ltd**

**Representative** : **Canonbury Management**

**Respondent** : **Assethold Ltd**

**Representative** : **Conway & Co Solicitors**

**Type of Application** : **Right to Manage, s84(4)**

**Tribunal Members** : **Judge D Dovar  
Mr Neil Maloney FRICS**

**Date and venue of  
Hearing** : **Paper Determination**

**Date of Decision** : **9<sup>th</sup> January 2015**

---

**DECISION**

---

© CROWN COPYRIGHT 2015

1. This is an application for a determination under s84(3) of the Commonhold and Leasehold Reform Act 2002 ('the Act') as to whether the Applicant had, on the relevant date, the right to manage the Property.
2. By a claim notice dated 25<sup>th</sup> June 2014 the Applicant gave notice that it intended to acquire the Right to Manage the Property on 4<sup>th</sup> November 2014. By a counter-notice dated 28<sup>th</sup> July 2014 the Respondent disputed the claim alleging that the notice of invitation to participate and the claim notice were defective in various respects.
3. An application under s84(3) of the 2002 Act was made by the Applicant and the Tribunal gave directions on 28<sup>th</sup> August 2014 for the parties to set out their respective cases. By further directions on 6<sup>th</sup> October 2014, under Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal directed that this matter be dealt with by way of paper determination unless either party objected. Neither party objected and so this matter has been dealt with by the Tribunal on the papers.
4. The Respondent makes three challenges to the Applicant's claim to the right to manage:
  - a. That the notices inviting participation under s78(3) of the Act were not signed by an 'authorised person';
  - b. That contrary to the requirements of s80(3) of the Act, the claim notice did not give the address of the flats for the qualifying tenants who were also members of the Applicant company;
  - c. That contrary to s80(4) of the Act, the claim notice did not provide the correct lease particulars.

### **Authorised Person**

5. Prior to the service of a notice of claim, s78 of the Act must be complied with. That provides for the service of a notice inviting participation from other tenants. Pursuant to the Act, regulations have provided for a prescribed form to be used (the Right to Manage (Prescribed Particulars

and Forms) (England) Regulations 2010). That form needs to be signed by a person authorised by the RTM Company.

6. The Respondent asserts that at the time the notices inviting participation were signed, being the 7<sup>th</sup> June 2014, the signatories, RTM Nominee Directors Limited and RTM Secretarial Limited, were not registered as officers of the RTM Company. The Respondents claim that they were not registered until 9<sup>th</sup> June 2014 and put the Applicant to proof that the signatories were appointed on or before 7<sup>th</sup> June 2014. They rely on the records for Companies House. However, those show that the appointments were *filed* on 9<sup>th</sup> June, but that the appointments were actually made on 14<sup>th</sup> May 2014.
7. It is therefore clear that at the time the notices were signed, the signatories were duly appointed officers of the RTM Company with authority to sign the notices and the Respondent's first challenge fails.

#### **Address of the Flats**

8. Section 80 (3) of the Act requires the claim notice to provide the name of each qualifying tenant who is a member of the RTM Company as well as the address of their Flat. The Applicant provided each name. The Respondent asserts that they failed to give the flat address and therefore the notice is invalid.
9. The flat number of each tenant who was a member of the RTM Company was given. Page three of the claim notice contains the schedule. Part 1 of that schedule sets out the particulars required under s80(3). It states by each person who is both a qualifying tenant and a member of the RTM company their flat number; i.e. 'Flat No. 1'. It does not go onto expressly state '... 22 Hamer Street'. However, in the context of a notice relating to flats at 22 Harmer Street, Gravesend, Kent, it is clear that the reference to a 'Flat' number is a reference to a flat number at that address. Accordingly, this challenge also fails.

#### **Lease particulars**

10. Section 80 (4) requires the claim notice to set out the particulars of the lease of each member of the RTM Company; including the date that each lease was entered into. The parties agree that the Applicant made a mistake on this date for each lease and appears to have recited the date of registration rather than the date the lease was entered into. Both accept that this is an inaccuracy.
11. The Respondent states that such inaccuracies are not necessarily fatal to the notice by virtue of s81 of the Act. However, they assert that in this case the failure is '*a comprehensive failure to comply with the provision of the Act*' and therefore the claim notice should be held to be invalid.
12. Section 81 provides that '*(1) A claim notice is not invalidated by any inaccuracy in any of the particulars required by or by virtue of section 80*'. Given that both parties accept that the error is an inaccuracy, s81 prevents the notice from being invalidated by reason of that inaccuracy.
13. Further the purpose of the mandated information is to enable the recipient of the notice to identify the particular lease. Sufficient information has been provided for the recipient to identify the lease notwithstanding the inaccuracies.
14. Accordingly the final challenge to the claim fails.

### **Conclusion**

15. None of the challenges succeed and the Tribunal determines pursuant to s84(3) that on the date when the claim notice was given the Applicant was entitled to acquire the right to manage the Property.



Judge D Dovar

## **Appeals**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.