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LON/00BA/LAM/2007/0009

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON APPLICATIONS  
UNDER SECTIONS 24 (1) OF THE LANDLORD & TENANTS ACT 1985  
(AS AMENDED)**

**Applicant:** Mr. M Surty

**Representative:** In Person

**Respondent:** Tripomen Ltd

**Representative:** Hammond Bale Solicitors

**Re:** 68 Grosvenor Court, London Road, Morden Surrey SM4 5HQ

**Hearing date:** 27<sup>th</sup> June 2007

**Appearances:** For the Applicant: Mr. M Surty

For the Respondent: Mr. Martin Bale

**Members of the Residential Property Tribunal Service:**

**Mr. S E Carrott (LLB)  
Mr. C White (FRICS)**

1. The Tribunal received an application dated 4 May 2007 for the Appointment of a Manager under section 24 of the Landlord and Tenant Act 1987. The Applicant also sought dispensation from the requirement to serve a notice under section 22 of the Act.
2. The Tribunal decided to hold a preliminary hearing to decide whether or not service of the section 22 notice should be dispensed with. The parties were asked to provide a brief statement as to why dispensation should be granted or not and particularly why it is not reasonably practicable to serve a section 22 notice. The parties were referred to section 22(3) of the Act and given copies of a previous Tribunal decision in **LON/00BK/LAM/2006/0024**.
3. At the hearing of the application, the Applicant Mr Surty appeared in person and the Respondent was represented by Mr Martin Bale of Hammond Bale Solicitors.
4. **The Law**  
Section 22(1) of the Landlord and Tenant Act 1987 provides that before an application for an appointment of a manager can be made then a notice under section 22(2) of the Act should be served on the landlord and also on any person (other than the landlord) by whom obligations relating to the management of the premises are owed to the tenant.
5. A notice under section 22(2) is required to give the following information -
  - (a) it must specify the tenant's name, the address of his flat and an address in England and Wales (which may be the address of his flat) for the purpose of serving notices including notices in proceedings in proceedings under Part 2 of the Act;
  - (b) state that the tenant intends to make an application to the Leasehold Valuation Tribunal for an order under section 24 of the Act and that (if applicable) he will not do so if the requirements in (d) are complied with;

- (c) specify the grounds upon which the court will be asked to make the order and the matters which would be relied upon by the tenant for establishing the grounds;
  - (d) where the matter complained of is capable of remedy the notice must direct the recipient within a reasonable period of time to take such steps for the purpose of remedying them; and
  - (e) contain such information (if any) as the Secretary of State may by regulations prescribe.
6. By section 22(3) of the 1987 Act, the court may (whether on the hearing of an application for an order under section 24 or not) by order dispense with the requirement to serve a notice under this section in a case where it is satisfied that it would not be reasonably practicable to serve such a notice on the landlord, but the court may, when doing so, direct that such other notices are served, or such other steps are taken, as it thinks fit.
7. A notice under section 24 of the 1987 Act acts as a warning shot to the landlord notifying him of the matters that he is required to put right. In **LON/00BK/LAM/2006/0024** it was held that the such a notice should only be dispensed with in exceptional circumstances.
8. **Evidence**
- Mr Surty told the Tribunal that he had not served section 22 notice because he had read in a Tribunal's booklet that an application could be made to dispense with service of the notice. He outlined a rather unhappy history with the landlord and its management agents and said that his application had the support of other residents in the building. He said that there was no recognised tenants' association but that he had sent out questionnaires to the tenants which had been returned and had expressed their dissatisfaction with the current managing agents. He outlined a number of failures on the part of the managing agents.

9. Mr Bale, who had been instructed by the Respondent landlord informed the Tribunal that there was a poor relationship between the Applicant, the Respondent and previous as well as the current managing agents and that there was County Court litigation between the parties. His primary submission was that whatever the complaints raised by the Applicant, there were no exceptional circumstances present in this case which justified dispensation of the section 22 notice. He further pointed out to the Tribunal that Mr Surty had made clear in his submissions that it was not so much the appointment of manager that he sought but simply a change of managers which meant that so far as any substantive application was concerned, such application was unlikely to succeed on the merits.

10. **Determination**

The Tribunal determined that this was not an appropriate case to dispense with service of the section 22 notification. There were no exceptional circumstances and it was clear that so far as the Respondent was concerned, the Applicant had not made clear the basis of his application for the appointment of manager. As stated in **LON/00BK/LAM/2006/0024** a dispensation should only be granted in exceptional circumstances. There was no urgency in this case and no reason why the Applicant could not have served the requisite notice on the Respondent.

11. Moreover the Applicant's intention was not to achieve the appointment of a manager but in fact to replace the existing managing agents as he made clear in his oral submissions to the Tribunal. The appointment of a manager was a draconian step and if the procedural safeguards in section 22 were to be dispensed with an Applicant was required to show more than mere dissatisfaction with current managing agents.

12. If Mr Surty still continued to be dissatisfied with the current managing agents and wished to continue to make an application under section 24, it was still open to him to serve a section 22 notice and to make a

fresh application under section 24 as long as grounds existed for so doing.

13. However in view of there being no grounds to dispense with the section 22 notice, the present application for the appointment of a manager would be dismissed.

14. **Decision**

- (a) The application to dispense with service of the section 22 notice is refused.
- (b) The application for the appointment of manager is dismissed, the Applicant having failed to serve a section 22 notice.

Chairman .....

*SECAMOLA*

Date .....

*16/8/07*