



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

**Case reference** : LON/00AM/LRM/2018/0010

**Property** : 34 – 88 Finn House, Bevenden Street, London N1 6BL

**Applicant** : 34 – 88 Finn House RTM Company Limited

**Representative** : Stock Page Stock, property managers

**Respondent** : Long Term Reversions (Torquay) Limited

**Representative** : David Bland In house lawyer

**Type of application** : Right to manage

**Tribunal member(s)** : Tribunal Judge Dutton  
Mr W R Shaw FRICS

**Date of decision** : 27<sup>th</sup> June 2018

**DECISION**

**Decisions of the Tribunal**

- (1) The Tribunal determines that the Applicant was not, on the relevant date, entitled to acquire the right to manage 34 – 88 Finn House, Bevenden Street, London N1 6BL (the Premises) for the reasons set out below

**The application**

- 1. This was an application to acquire the right to manage of (“the Premises”) under Part 2 of Chapter 1 of the Commonhold and Leasehold Reform Act 2002 (“the Act”). The Respondent freeholder

has served a counter-notice asserting that the Applicant RTM company was not on the relevant date entitled to acquire the right to manage.

### **The law**

2. The relevant provisions of the Act are referred to in the decision below.
3. In its counter-notice dated 4<sup>th</sup> April 2018 and signed by Pier Legal Services as authorised agents for the Respondent, the Respondent raised the complaint that the *“Company has failed to give the claim notice to the landlord, the claim notice of 5 March 2018 not having been adequately given to the landlord at all, only hand delivered to an employee at the landlord’s agent.”*
4. The Respondent has added a further point of attack in the submissions made to the Tribunal in a statement of case dated 10<sup>th</sup> May 2018, which it is entitled to so to do. This was to allege that the Applicant did not include its registered office address in the Claim Notice. The address stated is the property address. The Articles of Association state that the registered office of the company shall be situated at 83 Goswell Road, London EC1V 7ER, which is the address of Stock Page Stock.
5. The statement of case from the Respondents was served on the Applicant’s representative. Initially a request was made by the Respondent for an oral hearing. The Applicant said it was happy to proceed as a paper determination and the Respondent, on reflection agreed to this course of action, content to rely on its statement of case. There have been no submissions on behalf of the Applicant and no response to the Respondent’s statement of claim.
6. Having considered the statement of case lodged by the Respondent and the documents annexed thereto and the law, we make the findings set out below.

### **Findings**

7. The Court of Appeal case of *Elim Court RTM Co. Ltd v Avon Freeholds [2017]WEWCA Civ 89*, provides encouragement to us to find that errors in the procedure might be ignored in certain circumstances. The opening lines of the judgment of Lord Justice Lewison are fitting comment on the procedures required to establish a no fault right to manage. We have noted paragraph 77 of the judgment.
8. We will deal firstly with the argument raised in the Counter Notice concerning service on the agent. This seems to us to be somewhat unmeritorious. The provisions of s79(1) refer to the giving of the Claim Notice. There is no doubt in our mind that the Claim Notice came to the attention of the Respondent through its agents. They clearly have

ostensible authority to act on behalf of the Respondent, as evidenced by their completion and signature to the Counter Notice. If this were the only complaint we would have been minded to reject the Respondent's case and to have granted the Applicant the right to acquire the right to manage the Premises. It is noted that there appear to have been a number of unsuccessful past attempts to acquire this right.

9. However, it is clear that the provisions of s80(5) require that the Claim Notice *must* state the name and registered office of the RTM Company. It does not it refers to the Premises address. The Respondent cites the case of Assethold Limited v 15 Yonge Park RTM Co. Ltd which supports its arguments. We cannot find any later authority to rebut this finding. Accordingly, and with some reluctance we find that this error is fatal. Our reluctance is somewhat ameliorated by the fact that this is apparently the 4<sup>th</sup> or 5<sup>th</sup> attempt and whilst we appreciate the perseverance on the part of the Applicant perhaps it is now time the procedural steps were correctly put in place.
10. Therefore, in accordance with section 84(3), we determine that the Applicant does not have the right to acquire the right to manage the Premises.

*Andrew Dutton*

**Name:** Tribunal Judge Dutton      **Date:** 27<sup>th</sup> June 2018

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case

number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

## **Relevant Law**

### ***S80 Contents of claim notice***

(1)The claim notice must comply with the following requirements.

(2)It must specify the premises and contain a statement of the grounds on which it is claimed that they are premises to which this Chapter applies.

(3)It must state the full name of each person who is both—

(a)the qualifying tenant of a flat contained in the premises, and

(b)a member of the RTM company,

and the address of his flat.

(4)And it must contain, in relation to each such person, such particulars of his lease as are sufficient to identify it, including—

(a)the date on which it was entered into,

(b)the term for which it was granted, and

(c)the date of the commencement of the term.

(5)It must state the name and registered office of the RTM company.

(6)It must specify a date, not earlier than one month after the relevant date, by which each person who was given the notice under section 79(6) may respond to it by giving a counter-notice under section 84.

(7)It must specify a date, at least three months after that specified under subsection (6), on which the RTM company intends to acquire the right to manage the premises.

(8)It must also contain such other particulars (if any) as may be required to be contained in claim notices by regulations made by the appropriate national authority.

(9)And it must comply with such requirements (if any) about the form of claim notices as may be prescribed by regulations so made.