



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

Case Reference : **LON/00AC/LRM/2018/00370**

Property : **105 Leicester Road Barnet Herts
EN5 5EL**

Applicant : **105 Leicester Road RTM Co Ltd**

Representative : **RTMF Services Ltd**

Respondent : **105 Leicester Road Ltd**

Representative : **Scott Cohen Solicitors Ltd**

Type of Application : **No fault Right to Manage , s84(3)
CLARA 2002**

Tribunal Members : **Judge F J Silverman Dip Fr LLM**

**Date and venue of
paper consideration** : **26 March 2018, 10 Alfred Place,
London WC1E 7LR**

Date of Decision : **26 March 2019**

DECISION

The Tribunal determine that on the date of the Application the Applicant was entitled to acquire the right to manage the premises.

REASONS

- 1 This decision relates to an application dated 29 November 2018 in which the Applicant asked the Tribunal to exercise its powers to grant the right of management to the Applicant under the provisions of s84(3) Commonhold and Leasehold Reform Act 2002 (the Act).
- 2 Directions were issued on 07 February 2019.
- 3 This matter was considered on a paper determination by a Tribunal sitting in London on 26 March 2019. In reaching its decision the Tribunal considered both parties' submissions together with the statements and documentation prepared by both parties.
- 4 The issue before the Tribunal was whether the Applicant had satisfied the provisions of s79(5) and s84(3) of the Act relating to the qualifying tenants participating in and becoming a member of an RTM company and whether the Application itself had been correctly made.
- 5 The Respondent had served a counter notice (dated 31 October 2018) alleging that the Applicant was not entitled to the right to manage the premises and further alleged that the RTM company had insufficient members at the relevant date to satisfy the requirements of Act.
- 6 It is clear from the documentation supplied to the Tribunal by both parties that at the relevant date (service of the notice on 26 September 2018) that the Applicant company had four members registered such on 24 and 28 August 2018 ie four out of the five tenants were members of the company before the notice was served. The Respondent appears to have confused 'subscribers' to the company with its 'members'.
- 7 The Tribunal is therefore satisfied that the Applicant has complied with the provisions of s79(5) of the Act.
- 8 The Applicant's application therefore succeeds because it demonstrates compliance by the Applicant with both s79(5) and s84(3) of the Act.

9 The Law Commonhold and Leasehold Reform Act 2002

Before making a claim to acquire the right to manage any premises, a RTM company must give notice to each person who at the time when the notice is given –

- (a) is the qualifying tenant of a flat contained in the premises, but
- (b) neither is nor has agreed to become a member of the RTM company.'

S79(5) In any other case the membership of the RTM company must on the relevant date include a number of qualifying

tenants of flats contained in the premises which is not less than one-half of the total number of flats so contained.

‘s84(2)

A counter -notice is a notice containing a statement either –
(a) admitting that the RTM company was on the relevant date entitled to acquire the right to manage the premises specified in the claim notice; or
(b) alleging that, by reason of a specified provision of this Chapter, the RTM company was on that date not so entitled.’

‘S84(3)

Where the RTM company has been given one or more counter-notices containing a statement such as is mentioned in subsection 2(b) , the company may apply to a leasehold valuation tribunal (sic) for a determination that it was on the relevant date entitled to acquire the right to manage the premises’

Judge F J Silverman as Chairman

Date 26 March 2019

Note:

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.