



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

Case reference : **LON/00AM/LAM/2015/0023**

Property : **161 Ewell Road, Surbiton, Surrey,
KT 6 6AW**

Applicant : **Mr Michael McCabe**

Respondent : **Mr Calogero Nola and Mrs
Guisseppina Nola**

Representative : **Mr L Gibson of PC Law instructed
by TWM Solicitors**

Type of application : **Appointment of a manager**

Tribunal : **Judge Barran**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of directions : **16 June 2017**

DIRECTIONS/LIFT OF STAY

Full hearing (time/date):	Monday 18 September 2017 at 10 Alfred Place, London WC1E 7LR starting at 10am (or such later time as the Tribunal may notify the parties).
Inspection (time/date):	To be arranged by the tribunal at the hearing, if required

BACKGROUND

- (1) The applicant seeks an order appointing a manager under section 24 of the Landlord and Tenant Act 1987 (the “Act”).
- (2) A preliminary notice under section 22 of the Act dated 19 August 2015 was served on the respondent.
- (3) The applicant now proposes Mr Seamus Mullaney as Manager. The Respondent proposes a person from the current Managing Agent Inbloc Ltd as Manager. I agree that the application may be amended accordingly.
- (4) A CMC was held and I encouraged the parties to meet the proposed managers and to settle this matter by agreement. That option is still open to them. The applicant has made a claim against the respondent in the county court, due to be heard on 4 September 2017.
- (5) The commercial tenant Ms L Calleja attended the CMC and may apply to be joined as a party. The tribunal will send her these Directions and the parties are directed to copy her in on the Managers’ documents. I thank her, Mr Gibson and the parties who attended for their assistance at the CMC. These Directions and timetable have been drawn up with their input.
- (6) Regrettably the terms of the settlement agreed by the parties and endorsed by order of the tribunal dated 17 December 2015 have not succeeded. The stay of the application is therefore lifted and the application received 16 October 2015 is restored.
- (7) The parties are referred to the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for guidance on how the application will be dealt with.

DIRECTIONS

1. The tribunal will reach its decision on the basis of the evidence produced to it and upon an assessment of the suitability of the proposed manager. The tribunal has identified the following issues to be determined:

- Is the preliminary notice compliant with section 22 of the Act and/or, if the preliminary notice is wanting, should the tribunal still make an order in exercise of its powers under section 24(7) of the Act?
 - Has the applicant satisfied the tribunal of any ground(s) for making an order, as specified in section 24(2) of the Act?
 - Is it just and convenient to make a management order?
 - Would the proposed manager be a suitable appointee and, if so, on the terms and for how long should the appointment be made?
 - Does the proposed manager need any additional powers to levy his own service charge in respect of flat(s) that have not been demised to any lessee, but have been retained by the respondent?
 - If application is made, should the tribunal make an order under section 20C of the Landlord and Tenant Act 1985, to limit the landlord's costs that may be recoverable through the service charge and/or an order for the reimbursement of any fees paid by the applicant?
2. The parties shall send a copy of these Directions to their proposed manager within the next seven days.
 3. The respondent shall send a summary of the current insurance policy, receipt for premium paid and invoice demanding 75% share to the applicant within seven days.

Documents from the proposed Managers

4. In addition to the application and supporting documentation already provided to the tribunal, by **25 August 2017 the parties** shall send to the tribunal (3 copies) and to the other party and the commercial tenant:
 - A written statement of the residential management experience of their proposed manager, together with the management plan and proposed remuneration and details of any professional indemnity insurance;
 - A draft management order or terms (including period) they wish the tribunal to include in any order it may make;
 - Confirmation that the proposed manager has read the lease and seen the property and will accept appointment;
 - Confirmation whether the manager will comply with the current edition of the Code of Practice published by the Royal Institution of Chartered Surveyors;

The parties' additional statements

5. By **8 September 2017** the parties shall send an update of their statement **to the tribunal (3 copies)** with one to the other party and one to the commercial tenant. This should include a summary of the outcome of the county court claim.

Documents for the hearing

6. The parties shall use the documents exchanged and sent above (see Directions 3 & 4) and the bundles already prepared for the hearing in 2015. The Tribunal has one original bundle on file. The Respondent has agreed to send the Tribunal an extra copy of that bundle by 28 August 2017.
7. Any application for an order under section 20C of the Landlord and Tenant Act 1985 and/or for the reimbursement of fees will be dealt with at the hearing. The parties may wish to make written representations on this in their statements of case, or orally at the end of the hearing.

Hearing/ inspection arrangements

8. The hearing shall take place on **Monday 18 September 2017** at **10 Alfred Place, London WC1E 7LR** starting at **10am**
9. The hearing is estimated to last for 4 - 5 hours. The hearing should end in time for the tribunal to deliberate on its decision. If either party considers this is an unrealistic estimate, they should write to the tribunal and send a copy to the other party explaining why, two weeks prior to the hearing date.
10. **The proposed managers shall attend the hearing for at least one hour.** It is likely the tribunal will question them separately, not in each others presence.
11. If the tribunal considers an inspection will assist, it will arrange a time to inspect the property with the parties during the hearing.

Name: *V Barran*

Date: 16 June 2017

NOTES

- (a) **Whenever you send a letter or email to the tribunal you must also send a copy to the other parties and note this on the letter or email.**

- (b) If the applicant fails to comply with these directions the tribunal may strike out all or part of their case pursuant to rule 9(3)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (“the 2013 Rules”).**
- (c) If the respondent fails to comply with these directions the tribunal may bar them from taking any further part in all or part of these proceedings and may determine all issues against it pursuant to rules 9(7) and (8) of the 2013 Rules.**