



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

**Case Reference** : MAN/00DB/LRM/2019/0002

**Property** : 8-18 Wentworth Mews, Ackworth, Pontefract,  
WF7 7EN

**Applicant** : 8-18 Wentworth Mews (Pontefract) RTM Co.  
Ltd.

**Representative** : Managing Estates Ltd.

**Respondent** : Gateway Property holdings Ltd.

**Type of Application** :Section 84(3) of the Commonhold and Leasehold  
Reform Act 2002

**Tribunal Members** : Judge P Forster  
Ms J A Jacobs MRICS

**Date of Determination** : 26 June 2019

**Date of Decision** : 16 August 2019

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**DECISION**

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## Decision

1. The applicant is entitled to acquire the right to manage 8-18 Wentworth Mews, Ackworth, Pontefract, WF7 7EN.

## Introduction

2. This is an application by 8-18 Wentworth Mews (Pontefract) RTM Co. Ltd. (“the applicant”) for a determination under s.84(3) of the Commonhold and Leasehold Reform Act 2002 (“the Act”) that it is entitled to acquire the right to manage the property known as 8-18 Wentworth Mews, Ackworth, Pontefract, WF7 7EN (“the premises”). The respondent landlord, Gateway Property Holdings Ltd. contends that the applicant is not so entitled because of an alleged defect in the claim notice.
3. Pursuant to directions given on 11 April 2019 and in the absence of any objection from the parties, the application is to be determined without a hearing. The applicant’s case is set out in its application and the respondent’s case is set out in its statement of case with its supporting documents.

## The respondent’s case

4. The respondent’s case is that the applicant’s claim notice did not contain a valid statement of the grounds on which it claims to have the right to acquire the premises. S.80(2) of the Act provides that the claim notice must “*specify the premises and contain the statement of the grounds on which it is claimed that they are premises to which this Chapter applies*”. The applicant’s claim notice simply stated: “*the premises as a self-contained building with qualifying tenants as defined by section 72 of the 2002 Act*”. The respondent submits that is not a sufficient statement because the notice fails to give details of either the number of flats in the premises or the number of flats held by qualifying tenants. The failure to comply with the statutory requirement renders the claim notice a nullity.

## The applicant’s case

5. The applicant’s case is that the statement given on page 4 of the claim notice sets out to confirm that the premises is a self-contained building with qualifying tenants and further clarifies that the premises falls within the definition of s.72 of the Act. The applicant has complied with s.80(2) because the claim notice clearly states the premises which the RTM company intends to acquire the right to manage and further states the grounds on which the applicant claims the premises are ones to which chapter 1 of the Act applies.

6. The applicant does not believe that the Act requires the level of detail asked for by the respondent, namely, the number of flats in the premises and the number held by qualifying tenants. The respondent will already hold that information and therefore the statement given in the claim notice is sufficient enough to enable it to identify the premises and that it does fall under s.72 of the act.
7. Even if the respondent's interpretation of the Act were to be accepted, s.81(1) provides that: "*a claim notice is not invalidated by any inaccuracy in any of the particulars required by or by virtue of section 80*". The applicant submits that should the statement be found to be insufficient it should only be considered that the statement is inaccurate and therefore does not invalidate the claim notice.

### The Law

8. The relevant law is in Part 2, Chapter 1 of the Act and is set out in the annex below.

### The Decision

9. The applicant's claim notice dated 5 December 2018 is in the form prescribed by Schedule 2 of the Right to Manage (Prescribed Particulars and Forms) (England) Regulations 2010. The applicant has specified in paragraph 1 that it claims the right to manage 8-18 Wentworth Mews, Ackworth, Pontefract, WF7 7EN. The applicant has stated in paragraph 2 that the grounds for the claim are that the premises is a self-contained building with qualifying tenants as defined by s.72(1) of the 2002 Act. The lack of any express reference to the number of flats or to the number of flats held by qualifying tenants does not invalidate the notice because there is an express reference to s.72(1). The applicant's statement could provide more detail, but it is not inaccurate.
10. If the lack of an express reference to the number of flats or to the number of flats held by qualifying tenants could be described as inaccurate, the validity of the claim notice is saved by s.81(1) of the Act which provides that "*a claim notice is not invalidated by any inaccuracy in the particulars required by or by virtue of section 80*".
11. The legislation is intended to be "no fault right to manage" and does not lay pitfalls in front of parties who wish to acquire the right. The Act must be followed, and we find that the claim notice is valid.
12. We find that the applicant has acquired the right to manage the premises.

**Judge P Forster**

**16 August 2019**

## ANNEX

### **s.72 Premises to which Chapter applies**

- (1) This Chapter applies to premises if—
  - (a) they consist of a self-contained building or part of a building, with or without appurtenant property,
  - (b) they contain two or more flats held by qualifying tenants, and
  - (c) the total number of flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises.
- (2)A the building is a self-contained building if it is structurally detached.
- (3)A part of a building is a self-contained part of the building if—
  - (a) it constitutes a vertical division of the building,
  - (b) the structure of the building is such that it could be redeveloped independently of the rest of the building, and
  - (c) subsection (4) applies in relation to it.
- (4) This subsection applies in relation to a part of a building if the relevant services provided for occupiers of it—
  - (a) are provided independently of the relevant services provided for occupiers of the rest of the building, or
  - (b) could be so provided without involving the carrying out of works likely to result in a significant interruption in the provision of any relevant services for occupiers of the rest of the building.
- (5) Relevant services are services provided by means of pipes, cables or other fixed installations.
- (6) Schedule 6 (premises excepted from this Chapter) has effect.

### **s.80 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.

### **S.81 Claim notice: supplementary**

- (1)A claim notice is not invalidated by any inaccuracy in any of the particulars required by or by virtue of section 80.
- (2) Where any of the members of the RTM company whose names are stated in the claim notice was not the qualifying tenant of a flat contained in the premises on the relevant date, the claim notice is not invalidated on that account, so long as a sufficient number of qualifying tenants of flats contained in the premises were members of the company on that date; and for this purpose a “sufficient number” is a number (greater than one) which is not less than one-half of the total number of flats contained in the premises on that date.
- (3) Where any premises have been specified in a claim notice, no subsequent claim notice which specifies—
  - (a) the premises, or

- (b) any premises containing or contained in the premises,  
may be given so long as the earlier claim notice continues in  
force.
- (4) Where a claim notice is given by a RTM company it continues in force  
from the relevant date until the right to manage is acquired by the  
company unless it has previously—
  - (a) been withdrawn or deemed to be withdrawn by virtue of any  
provision of this Chapter, or
  - (b) ceased to have effect by reason of any other provision of this  
Chapter.