



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

Case Reference : **CHI/29UC/LBC2017/0021-3**

Properties : **Flats 5,9,6,7 & 10 Dolphin Court,
110 Central Parade, Herne Bay
Kent CT6 5JP**

Applicant : **Tindrell Ltd**

Representative : **J B Leitch Solicitors**

Respondents : **Mardan Properties Ltd
(Flats 6,7 and 10)**

Type of Application : **Permission to Appeal**

Tribunal Members : **Judge D Dovar
Mr R Athow FRICS MIRPM
Mr P Gammon MBE BA**

Date of Decision : **13th December 2017**

DECISION

DECISION OF THE TRIBUNAL

1. The Tribunal has considered the Applicant's request for permission to appeal dated 21st November 2017 and determines that:
 - a. It will not review its decision, and
 - b. Permission is refused

2. In accordance with Section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the Applicant may make a further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the Firsttier Tribunal sent notice of this refusal to the party applying for permission to appeal.

REASONS FOR THE DECISION

3. The reason for the decision is that the Tribunal has considered and taken into account all of the points now raised by the Applicant, when reaching its original decision.

4. The first ground of appeal is the refusal to allow the Applicant to pursue the allegation that the Fourth Respondent had failed to obtain the consent of the RTM company to sub-let.

5. The Tribunal does not consider that this ground has any prospect of success as:
 - a. The application was that the Respondent had failed to get the Applicant landlord's consent when their property had been subject to a right to manage claim. The fact that it was the RTM's consent that was required was an allegation that was raised for the first time at the hearing. The Applicant in their application for permission at paragraph 7 accept that this allegation strayed from the particularised claim;
 - b. Ms Elu had been equivocal in her oral evidence at one point contending that the RTM company had abnegated its right to give consent and that it fell to the Applicant to give consent. An allegation propounded in the grounds of appeal at paragraph 10. It therefore remains unclear as to who the Applicant contends consent should have been sought from;
 - c. The Tribunal set out its approach to s168 applications at paragraph 14 of its determination, the Applicant has not addressed those points in application. Further, the ground relies on an overly formal approach to the allegation, however, that is distinct from a lack of precision in the way that the Applicant had put their case;
 - d. The Applicant has not appealed the decision in relation to the 2nd and 3rd Respondents and the same reasoning applied to the claim against them.
6. The second ground of appeal is said to be in relation to the alleged disrepair of the windows of the flat although the last paragraph, paragraph 21, includes a reference to the cooker hood. The Tribunal does not consider that either has any prospect of success as:
 - a. Its assessment of whether the windows were in or out of repair was the subject not only of witness evidence, but documentary

evidence (as to the cost of the works) as well as from a physical inspection on the morning of the hearing. It being accepted by the Applicant that the windows were presently in repair and having regard to the cost of the works done to the windows, the Tribunal were entitled to conclude, particularly after their inspection, that these windows had only been in need of decoration and cleaning and were not out of repair;

- b. The allegations regarding the faulty cooker hood and extractor fan appeared to the Tribunal as so slight as to be de minimis.
7. Further, even if there were any prospects of success, it is accepted by the Applicant that these items were no longer in disrepair and so an appeal would serve no purpose.

A handwritten signature in black ink, appearing to read 'D. Dovar', with a long, sweeping flourish extending to the right.

Judge D Dovar