



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

Case Reference : CHI/23UB/LAM/2022/0009/AW

Property : 6 Queens Parade, Cheltenham,
Gloucestershire GL50 3BB

Applicant : Mr Jeremy Blumer and Ms Caroline
Blumer

Representative : Ladders Solicitors LLP

Respondent : (1) Mr Trevor Underhay
(2) Ms Sally Ann Linger
(3) 6 Queens Parade Management
Company Limited

Representative :

Type of Application : Appointment of a manager

Tribunal Member(s) : Judge D Whitney
Mr M Woodrow MRICS
Mr M Jenkinson

Date of Hearing : 17 January 2023

Date of Decision : 1ST February 2023

DECISION

Background

1. The Applicant seeks the appointment of a manager pursuant to the Landlord and Tenant Act 1987. The Application proposes Ms Sarah Dedakis.
2. The Tribunal issued various directions including for provision of a bundle. An electronic hearing bundle was filed and references in [] are to pdf pages within the bundle dated 13th January 2023 and running to 511 pages.
3. We record that the hearing was originally listed for December 2022 in person at Cheltenham Magistrates Court but that hearing was adjourned at the request of the Respondents. The re-convened hearing took place remotely by video with the Judge sitting at Havant Justice Centre. The hearing was recorded.

The Law

4. The relevant law is contained within Section 24 of the Landlord and Tenant Act 1987.

The Hearing

5. The hearing took place remotely by video. No party objected and the Tribunal is satisfied that all parties were able to actively take part in the hearing.
6. Mr Blumer attended and was represented by Ms Kleopa of counsel and Ms Rouse of Ladders Solicitors, her instructing solicitor, was also in attendance. Mr Tarling attended throughout as expert witness for the Applicant.
7. Mr Underhay and Ms Linger attended on behalf of themselves and the Third Respondent. It appeared they only had a copy of an earlier bundle. They confirmed they had sight of the additional documents within the bundle before the Tribunal and were able to access all documents referred to. The Tribunal and parties were generally able to supply them with page numbers for the earlier bundle.
8. Ms. Dedakis the proposed manager attended throughout and gave her evidence after the parties had given their own evidence and submissions.

9. At the start of the hearing Mr Underhay confirmed that the Respondents simply relied upon the written evidence of their expert Mr Dunstan but had chosen for him not to attend to save incurring further costs.
10. Ms Kleopa at the start indicated she would not be presenting further evidence as to the allegations relating to the behaviour of the parties and would not seek to cross examine Mr Underhay on this and said this was not necessary. In her submission this was not necessary given the various other matters relied upon. She would rely upon her skeleton argument which all parties and the Tribunal had had sight of in advance.
11. The Applicants relied upon the evidence of Mr Blumer [150-156]. His evidence was not challenged by the Respondents. The Tribunal sought clarity as to how his flat was sub-let and Mr Blumer said that currently this was on a long term assured shorthold tenancy.
12. Mr Tarling FRICS gave expert evidence for the Applicant [331-354]. Again the Respondents did not seek to cross examine him upon his evidence. The Tribunal had no questions of Mr Tarling given his full report.
13. Mr Underhay presented the case for the Respondents. Both he and Ms Linger were in the same room at one of their flats within the Property. He relied upon the three statements he had given [204-255].
14. Mr Underhay was cross examined by Ms Kleopa.
15. He did not accept what Mr Tarling said re insurance valuation as this was just an opinion.
16. He suggested he had obtained quotes for works but had not yet submitted them as he was awaiting the outcome of the Tribunal. He accepted he had not had a valuation undertaken, he relied on the indexing applied by the broker.
17. In his view none of the matters which his surveyor, Mr Dunstan had identified in his report were significant or urgent.
18. Mr Underhay did not accept that clause 32 of Schedule 5 of the lease [56] allowed or required a sinking fund. In his view this was not necessary.
19. Mr Underhay said accounts had been provided and the actual demands had attached Summary of Rights and Obligations even though these were not attached to those within the bundle.
20. Mr Underhay did not accept any of the matters set out in Mr Tarling's report which he felt was just an opinion.

21. Mr Underhay confirmed he did not consider Ms Dedakis suitable to manage the Property.
22. Upon questioning by the Tribunal, Mr Underhay confirmed no works had been undertaken to the Property since 2012.
23. He accepted some work needs doing but this should be planned over the next 5 years. He expressed the view he could ill afford to place monies in a sinking fund and 5 years would give him time to plan.
24. He confirmed he was not aware of the RICS Management Code. In his view given there are only 4 flats in the Property, it is easy to manage.
25. His view was that if the Tribunal felt an appointment was required, it should only be for one year.
26. After his evidence the Tribunal adjourned to allow all parties to have a break.
27. Upon resumption Ms Kleopa completed her submissions.
28. She suggested there was serious disrepair as evidenced in the reports of both experts and she referred to the table attached to her skeleton as an Appendix listing the matters agreed by both experts.
29. Further she relied on the general mismanagement including the failure to provide proper service charge accounts, lack of a proper bank account for funds and improper demands amongst other matters.
30. She suggested the objectives for any manager should be:
 - Schedule and carry out repair works;
 - Ensure funds are demanded and collected;
 - Create a sinking fund;
 - Remedy the inadequate insurance;
 - Ensure compliance with all statutory obligations including Fire Risk Assessments;
31. She was not sure how long this would take but relied upon Ms Dedakis who had suggested 10 years within her management plan.
32. Ms Dedakis then gave her evidence. She referred to her statement [182-184] and management plan [476-480].

33. Ms Dedakis confirmed the majority of the portfolio she managed were listed buildings. She had been involved in property management for 20 years and specifically block management for the last 12 years. She had sold her previous business before founding Bath Leasehold Management.
34. In her opinion the insurance for the block sounded as though it was currently under insured and a review of the level of insurance and reinstatement value was, in her opinion, required.
35. She explained she would look at putting together a 10 year plan and then producing a budget which would include reserves. In her view it was critical that major works were planned and progressed sooner rather than later. She took the view that a period longer than 12 months would be required.
36. Ms Dedakis confirmed Mr Blumer was a leaseholder and director of a leaseholder owned freehold company for whom her company was the block manager. This was her only association with Mr Blumer. She explained her business had been built on referrals from existing clients.
37. Ms Dedakis was questioned by Mr Underhay.
38. She said she did not believe there was an ARMA regulated agent based in Cheltenham. She explained whilst most of the properties she manages are in Bath, she manages properties as far afield as London and a holiday complex in Devon.
39. She believed 10 years was reasonable to plan and manage the major works required.
40. In answer to questions by the Tribunal, Ms Dedakis confirmed she currently manages about 120 buildings. These ranged from Georgian Buildings to a holiday complex.
41. The turnover figure referred to on the insurance document was incorrect. Her business now had seven staff members.
42. She understood she would be answerable to the Tribunal and the appointment would be personal to her and not her company. She is happy to take on the challenge this presents. She has managed “difficult” blocks and understands the challenges.
43. She confirmed she had visited the site. She accepted her management plan was generic but until and unless appointed she candidly admitted she would not want to spend time on further investigation.
44. She confirmed she had no other Tribunal appointments although currently has been nominated for one other block. She had not

been involved in any other Tribunal proceedings and no complaints had been referred to the Ombudsman.

45. She understood that, once appointed, there was no automatic release until the end of the Order.
46. Ms Kleopa then referred to her clients application under Section 20C of the Landlord and Tenant Act 1985 [109] and the grounds in support [118-120].
47. Mr Underhay explained he would have certain funds available over the next 1 to 3 years. He could not understand why the parties could not simply agree rather than having the expense of a managing agent. He could not help not having sufficient funds.
48. Ms Linger confirmed that she accepted that the figures her expert proposed for works totalling about £18,500 inclusive of VAT seemed right and the works were required.
49. At the end of the hearing the parties confirmed they had made all submissions they wished to make and had nothing further to add.

Decision

50. We thank the parties for their measured and helpful submissions.
51. We have considered carefully all of the material put to us within the bundle and which the parties took us through.
52. We did not inspect the property but various photographs were within the bundle and we used readily available resources on the internet to view the Building. It is a mid terrace Georgian house which we are told is Listed. It has been converted into 4 flats, three of which belong to Mr Underhay and Ms Linger with the fourth belonging to the Applicants. The Third Respondent is a company owned by the leaseholders. Mr Blumer was previously a director but now the only directors are the First and Second Respondents.
53. We are satisfied that a Notice pursuant to Section 22 [77-88] was served by the Applicants upon the Third Respondent and no substantive response was received. This was not disputed by the Respondents.
54. We note that both experts accepted works were required including the Respondents expert. (See page [469] for list of the works he considered were required totalling about £18,500 inclusive of vat but not taking account of scaffolding and other preliminary costs). The evidence in the report from Mr Tarling was not challenged. We were satisfied that the works which both experts agreed upon plainly need to be undertaken within a reasonable period of time.

Whilst nothing can be said to be immediately urgent, a plan is required for the works to be undertaken.

55. Mr Underhay himself in evidence admitted no major works had been undertaken for over a decade. Whilst he stated he had obtained quotes, these were not produced and it was far from clear as to whether he even now considered that works were required. He thought 3 to 5 years was a reasonable timeframe of works.
56. Further it was clear from his evidence, including his admission he had not heard of the RICS Management Code, that he had little real experience making him suitable to manage the Property.
57. We did not accept Mr Underhay's evidence that service charge accounts had been provided nor that any demands were issued that had appropriate summaries of rights and obligations attached. These had not been supplied or sent when the Section 22 notice was given. Further Mr Underhay seemed oblivious to the issues with the account used for collecting service charges in the past which was simply a joint account in the name of him and Ms Linger. His answers to questions asked by counsel to Mr Blumer made clear he would not accept any of the points raised or which gave rise to criticism of his actions.
58. This was amply demonstrated when considering the value for insurance reinstatement purposes. He was adamant the index linking applied over many years (it appeared since 2008 when the leases were first granted) was acceptable. He referred to confirmations from the brokers but these were not in the bundle. He simply dismissed the views of Mr Tarling as "opinion" without any proper consideration.
59. We are satisfied that as currently managed by the Third Respondent in the guise of its two directors being the First and Second Respondents, the Property is not being properly managed. Having heard oral evidence, we are not satisfied that unless there is a change the Property would be managed properly by the Third Respondent. We are satisfied that it is just and convenient for a manager to be appointed.
60. We have considered whether Ms Dedakis is suitable. We find that she is.
61. Ms Dedakis impressed the panel in her evidence. We are satisfied that whilst she manages a block in which Mr Blumer owns a Property Ms Dedakis understood the need to avoid any conflict and she satisfied this Tribunal she understood her duties to the Tribunal.
62. We have considered the length of appointment. Whilst we can see the logic to the 10 years referred to by Ms Dedakis we feel this is too

long. A Tribunal manager should be appointed for the shortest time we think is required to achieve the objective.

63. We find the objective should be for the works which both experts find are required (as set out in the Appendix to Ms Kleopa's skeleton argument) should be completed. This will allow for the most urgent works to be undertaken and for a reserve fund to be established to ensure the Property is back on a good footing. One would hope the Third Respondent can then take back responsibility and we highlight that it can of course appoint a manager, including Ms Dedakis. If further time is required any party, including the manager, could apply for an extension.
64. We are satisfied that Ms Dedakis' fees are reasonable.
65. We determine that the order should be for a period commencing on 1st March 2023 until 31st December 2026. Ms Dedakis will be required to place insurance for the Property from 31st March 2023 when the current policy in place expires. The end date is to coincide with the service charge year within the lease and allows a clear period of three years for the works to be undertaken.
66. For the avoidance of doubt, Ms Dedakis will start with a clean sheet. She will not be required to look at the accounts or collect any supposed arrears relating to the Third Respondent. This will be a matter for that entity. Ms Dedakis will, as at 31st December 2023, produce accounts from the date of her appointment until that date and then on each anniversary thereafter in accordance with the lease.
67. We have considered what if any initial funds will be required. The insurance needs to be paid and all parties appear to acknowledge and accept the cost of works will be not insubstantial. The Respondents own expert costed these at a very basic level at about £18,500. We provide that upon demand by Ms Dedakis, each leaseholder shall pay a sum of £2,000 within 28 days of demand providing an initial fund of £8,000. We also provide that, subject to producing a budget, Ms Dedakis may at any point make a demand for further interim payments as are required. We record that any budget may properly include amounts for a reserve fund for future works.
68. Ms Dedakis will be required each year to report to the Tribunal and as part of any report seek authority for any increase in her fees.
69. Finally we have considered the application pursuant to Section 20C. We are satisfied, given the Applicants have been successful, that it is an appropriate use of our discretion to make an Order pursuant to Section 20C such that the Third Respondent may not recover any costs it has incurred from the Applicants. Further, we order that the Respondents should on a joint and several basis,

repay the Applicants Tribunal fees totalling £300 within 28 days on the basis that we are satisfied it was necessary and appropriate for this application to be made.

70. A copy of our management order is annexed to this decision.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk
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.