



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

Case Reference : CHI/00HG/LAM/2022/0011

Property : The Victoria, 80 Paradise Road, Plymouth,
Devon, PL1 5QR

Applicant : John Renwick

Representative : Curtis Whiteford Crocker Solicitors

Respondent : (1) The Victoria Freehold Company
(Plymouth) Limited
(2) Mr Simon Pannett (Flat I)
(3) Mr Alan Rigglesford (Flat V)
(4) Mr Paul Maloney (Flat N)

Representative :

Type of Application : Application for appointment of a manager

Tribunal Member(s) : Judge D Whitney
Mr M Woodrow MRICS
Mrs J Playfair

Date of hearing : 20th April 2023

Date of decision : 28th April 2023

DECISION

Background

1. The Applicant seeks the appointment of a manager by the Tribunal.
2. On 5th January 2023 directions were given for the final hearing. Further on 25th January 2023 an Interim Management Order was made appointing Mr Gerrard.
3. On 22nd February 2023 directions were issued following the striking out of the original application due to the failure to pay a hearing fee and supply a hearing bundle.
4. The application was reinstated on 29th March 2023 and listed for a hearing by video on 20th April 2023. The Applicant's solicitors provided a hearing bundle and references in [] are to pages within that bundle.

Hearing

5. The hearing took place by video. It was recorded and so below is a synopsis of what took place.
6. The following people were present as well as the panel:

Mr C Knapper, solicitor for the Applicant
Mr Renwick: Applicant
Mr Rigglesford and Mr Maloney: Respondents both at the same location
Mr Flamank: leaseholder of Apartment U
Mr D Gerrard: Interim Appointed Manager
7. At the start of the hearing the Tribunal confirmed they had received various interim applications including an application to join Mr Flamank as a Respondent and an application from Messrs Rigglesford and Maloney for an order pursuant to Section 20C of the Landlord and Tenant Act 1985 preventing recovery of costs incurred by the freehold company from themselves.
8. The Tribunal also raised a preliminary issue it had identified from the papers. It was suggested within the Section 20C application that Mr Renwick had disposed of his flat and no longer owned a leasehold interest in the building although he remained a director of the company which owned the freehold.
9. Mr Knapper said he was not aware of this. Mr Renwick did confirm he had sold his flat. Mr Knapper conceded that Mr Renwick could not be an Applicant.
10. The Tribunal put the point to all other leaseholders present. Messrs. Rigglesworth and Maloney confirmed they now opposed the

appointment of a manager and the ongoing appointment of Mr Gerrard. Mr Flamank also confirmed this was his position.

11. Mr Gerrard confirmed that if the Tribunal determined the application could not proceed and must be dismissed due to the lack of an Applicant, he could end his management quickly. It was confirmed with the parties that The Victoria RTM Company Limited had not as yet been struck off although a notice of compulsory strike off had been issued.
12. The Tribunal adjourned to consider whether it could proceed.
13. Upon resumption the Tribunal announced its decision with these written reasons to follow.

Decision

14. **The Tribunal dismissed the application.**
15. **Mr Gerrard shall continue as interim manager until 31st May 2023 on the basis of the previous interim order and to comply with the directions given below.**
16. **The Tribunal makes an Order pursuant to Section 20C of the Landlord and Tenant Act 1985 that the First Respondent may not recover any costs associated with this application from the leaseholders.**

Reasons

17. The Application was made by Mr Renwick as a leaseholder at the Property [1-15]. He had issued a notice pursuant to Section 22 of the Landlord and Tenant Act 1987 [41 and 42]. The evidence of Mr Renwick at the hearing was that he no longer owned a leasehold interest in the Property having sold his lease of Apartment S.
18. An application for appointment of a manager by a Tribunal must be made by a tenant of a flat within the Property (see Section 21 of the Landlord and Tenant Act 1987). Mr Renwick was not a tenant of a flat at the date of the hearing.
19. The Tribunal did consider whether any of the other tenants of flats at the Property who were present at the hearing could be substituted as Applicant. All present were objecting to the making of the order. We were satisfied that given there was not an applicant, the Application must be dismissed and so Order.
20. Mr Gerrard was appointed under an interim order dated 25th January 2023 [58-67]. We are satisfied that this order must be determined given the application has been dismissed. However a period of time

should be allowed to enable Mr Gerrard to wind up his management in an orderly fashion.

21. We direct the Interim Management will continue until 31st May 2023 when his management under this order will cease save that he may take any steps required to recover any funds due from any leaseholder who has failed to make contribution to him as required under the Interim Order.

22. We direct as follows:

- Mr Gerrard will prepare final accounts for his period of management as soon as practicable after the 31st May 2023 and shall send copies to all leaseholders;
- Mr Gerrard shall refund to the relevant leaseholder any and all funds he holds which have not been expended;
- In the interim period Mr Gerrard will not cause any further expenditure to be incurred unless there is an emergency requiring works and may if necessary seek further directions from the Tribunal.

23. Upon determination of the Interim Management Order, the management shall revert to the Right to Manage Company or, if this no longer exists, the freehold company.

24. Finally we considered the application for an order pursuant to Section 20C of the Landlord and Tenant Act 1985. The First Respondent, freeholder, has taken no active part in these proceedings beyond the fact that Mr Renwick is a director and, we are told, shareholder of that company. We are satisfied that in the particular circumstances of this case, including the circumstances giving rise to the dismissal of the same, it is appropriate to make an order that this company may not recover any costs it may have incurred from the leaseholders.

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.

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