



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

Case reference : **LON/00AP/LAM/2023/0010**

Property : **61 Dukes Avenue, Muswell Hill,
London N10 2PY**

Applicant : **Sara Patricia Neame (lessee of Flat C
and co-director of Respondent)**

Representative : **Collins Benson Goldhill LLP**

Respondent : **61 Dukes Avenue Management Co Ltd**

Interested Parties : **(1) Clare Price (lessee of Flat B)
(2) Sandra Grant (lessee of Flat A and
co-director of Respondent)**

Type of application : **Appointment of Manager**

Proposed Manager : **Martin Kingsley**

Tribunal : **Judge Nicol
Ms M Krisko FRICS**

**Date and venue of
Hearing** : **4th March and 14th May 2024
By remote video**

Date of decision : **14th May 2024**

DECISION

In accordance with section 24 of the Landlord and Tenant Act 1987, the Tribunal appoints **Mr Martin Kingsley** as Manager of the property at **61 Dukes Avenue, Muswell Hill, London N10 2PY** for a period of **5 years** on the terms of the Order attached hereto.

Reasons

1. The subject property is a terraced house converted into 3 flats. The freehold is owned by the Respondent. The Applicant, who is the lessee of Flat C, and Dr Sandra Grant, the lessee of Flat A, are the two shareholders and joint directors of the Respondent. There is provision for the lessee of Flat B to hold an equal share with the other two but, for reasons unknown, this has never happened. However, the current lessee of Flat B, Ms Clare Price, has maintained an active interest in the management of the property and in the current proceedings.
2. The Applicant applied for a management order under section 24 of the Landlord and Tenant Act 1987 (the “Act”) to appoint Mr Martin Kingsley as the manager of the property. The freehold company is the correct Respondent but, in reality, has no view on the outcome outside that of its shareholders and directors. While one, the Applicant, wished to appoint a manager, supported by Ms Price, the other, Dr Grant, opposed the application.
3. The application was heard on 4th March 2024 by remote video. The attendees were:
 - (a) The Applicant;
 - (b) Ms Ceri Edmonds, counsel for the Applicant;
 - (c) Ms Shahnaz Farahi, solicitor for the Applicant;
 - (d) Ms Price;
 - (e) Dr Grant;
 - (f) Mr Adam de Winter, a builder instructed by Dr Grant
 - (g) Mr Maxwell Myers, counsel for Dr Grant; and
 - (h) Mr Martin Kingsley, the proposed manager.
4. The documents before the Tribunal primarily consisted of a bundle of 834 pages from the Applicant. The Applicant also provided a supplementary bundle on the day of the hearing. It consisted of documents all parties had seen before and, after a 25-minute break for Mr Myers to take instructions, there was no objection to its admission. Both counsel also provided skeleton arguments.
5. The Tribunal heard from Mr Kingsley and from the parties’ witnesses, namely the Applicant, Ms Price, Dr Grant and Mr de Winter, on the day listed for the hearing. However, the hearing had to be adjourned part-heard to 14th May 2024.
6. During the period between the hearings, the parties reached an agreement that Mr Kingsley should be appointed as manager and on the terms of that appointment, save as to its length. The Applicant sought a period of 5 years whereas Dr Grant thought that was much too long.
7. The adjourned hearing was attended, again by remote video, by the Applicant, Ms Edmonds, Ms Price and Dr Grant (representing herself this time).

8. The Tribunal heard from Ms Edmonds, Dr Grant and Ms Price on the issue of the length of Mr Kingsley's appointment. Ms Edmonds essentially argued that the resolution of the issues between the lessees would take time. Dr Grant said that 5 years was much longer than required and would actually worsen lessee relationships by relieving any of them of any pressure to resolve issues sooner rather than later.
9. Dr Grant also stated that she had the strong impression from the previous hearing that the Tribunal had already made up its mind and that it was pointless for her to make representations. It is unfortunate that she gained this impression, which was not the Tribunal's intention. No decision can be reached until the Tribunal members discuss matters between themselves. Any discussions during the hearing are for the purpose of exploring the issues, not to suggest that conclusions had already been reached.
10. From the start of the hearing, it has been clear to the Tribunal that the relationship between Dr Grant and her fellow lessees had broken down and that this has seriously hindered the proper management of the property. Dr Grant was understandably concerned that, if the Tribunal followed the Applicant's case, she might be subject to some criticism which she felt would be undeserved. Rather, the Tribunal's focus and concern was what was needed to ensure that the property was properly managed in the coming years. Dr Grant's approach, that the lessees should be able to manage the property without the help of a manager, came across as over-optimistic, if not unrealistic, at the current time.
11. That is not to say that the Tribunal does not accept Dr Grant's central point that the lessees ought to be able to agree and compromise so as to manage the property by themselves. There was mention of a need for all 3 lessees to be members of the Respondent company so that any disputes could be resolved by a majority vote. However, the Tribunal does not accept that there should be any such need. Management by majority vote is a recipe for litigation as lessees seek to pull the court or Tribunal in to support one side or the other. In a relatively small property like this, management by consensus, if achievable, is likely to be far more effective.
12. It is for this reason that, when Mr Kingsley's appointment ends, the lessees will need to be able to manage the property together. Therefore, the Tribunal accepts Ms Edmonds's point that the period of Mr Kingsley's appointment not only turns on the management requirements of the property itself but also on how long it may take the parties to restore a working relationship. Issues between them not only include what repairs or fire safety measures are needed, but also whether and how the leases should be amended (the leases currently contain no obligation to repair or power to employ a manager for the Respondent or provision for a reserve fund). Even after particular issues are resolved, it may take further time for essential trust and proper communication to be built up.

13. In the current circumstances, the Tribunal is satisfied that it is just and convenient to appoint a manager. Further, having seen and questioned Mr Kingsley, the Tribunal is satisfied that he is a suitable appointee. His witness statement set out his substantial experience, including 8 current and 3 previous Tribunal appointments, details of his support team at K & M Property Management and his knowledge of regulatory requirements and of the property itself.
14. The agreed draft management order follows the Tribunal's template, with appropriate adjustments particular to this case. The Tribunal is satisfied that the terms are appropriate.
15. In relation to the length of Mr Kingsley's appointment, the Tribunal feels that Dr Grant is again being over-optimistic in thinking that a period shorter than 5 years is sufficient in the circumstances. In some contexts, that is, of course, a long time. In terms of managing the property and improving the parties' relationship, it is not. The Tribunal has specialist knowledge and experience of the appropriate timescales for property management and the resolution of legal disputes and, therefore, has concluded that the appropriate length of appointment is 5 years.
16. Of course, it remains open to the parties, either singly or together, to apply within that period for the management order to be discharged on the grounds that it is no longer required. Dr Grant was concerned that a longer period would hinder the parties in reaching agreement earlier but there is no reason to think that anyone wants to extend the period of dispute any longer than it needs to go on. As soon as the parties have demonstrated that Mr Kingsley's role is redundant by reaching a consensus on the way forward, they have good grounds for discharge of the order.

Name: Judge Nicol

Date: 14th May 2024

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Appendix – relevant legislation

Landlord and Tenant Act 1987

Section 24

- (1) The appropriate tribunal may, on an application for an order under this section, by order (whether interlocutory or final) appoint a manager to carry out in relation to any premises to which this Part applies--
 - (a) such functions in connection with the management of the premises, or
 - (b) such functions of a receiver, or both, as the tribunal thinks fit.

- (2) The appropriate tribunal may only make an order under this section in the following circumstances, namely--
 - (a) where the tribunal is satisfied--
 - (i) that any relevant person either is in breach of any obligation owed by him to the tenant under his tenancy and relating to the management of the premises in question or any part of them or (in the case of an obligation dependent on notice) would be in breach of any such obligation but for the fact that it has not been reasonably practicable for the tenant to give him the appropriate notice, and
 - (ii) . . .
 - (iii) that it is just and convenient to make the order in all the circumstances of the case;
 - (ab) where the tribunal is satisfied--
 - (i) that unreasonable service charges have been made, or are proposed or likely to be made, and
 - (ii) that it is just and convenient to make the order in all the circumstances of the case;
 - (aba) where the tribunal is satisfied--
 - (i) that unreasonable variable administration charges have been made, or are proposed or likely to be made, and
 - (ii) that it is just and convenient to make the order in all the circumstances of the case;
 - (abb) where the tribunal is satisfied--
 - (i) that there has been a failure to comply with a duty imposed by or by virtue of section 42 or 42A of this Act, and
 - (ii) that it is just and convenient to make the order in all the circumstances of the case;
 - (ac) where the tribunal is satisfied--
 - (i) that any relevant person has failed to comply with any relevant provision of a code of practice approved by the Secretary of State under section 87 of the Leasehold Reform, Housing and Urban Development Act 1993 (codes of management practice), and
 - (ii) that it is just and convenient to make the order in all the circumstances of the case;

or

- (b) where the tribunal is satisfied that other circumstances exist which make it just and convenient for the order to be made.

(2ZA) In this section "relevant person" means a person—

- (a) on whom a notice has been served under section 22, or
- (b) in the case of whom the requirement to serve a notice under that section has been dispensed with by an order under subsection (3) of that section.

(2A) For the purposes of subsection (2)(ab) a service charge shall be taken to be unreasonable—

- (a) if the amount is unreasonable having regard to the items for which it is payable,
- (b) if the items for which it is payable are of an unnecessarily high standard, or
- (c) if the items for which it is payable are of an insufficient standard with the result that additional service charges are or may be incurred.

In that provision and this subsection "service charge" means a service charge within the meaning of section 18(1) of the Landlord and Tenant Act 1985, other than one excluded from that section by section 27 of that Act (rent of dwelling registered and not entered as variable).

(2B) In subsection (2)(aba) "variable administration charge" has the meaning given by paragraph 1 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.

(3) The premises in respect of which an order is made under this section may, if the tribunal thinks fit, be either more or less extensive than the premises specified in the application on which the order is made.

(4) An order under this section may make provision with respect to—

- (a) such matters relating to the exercise by the manager of his functions under the order, and
 - (b) such incidental or ancillary matters,
- as the tribunal thinks fit; and, on any subsequent application made for the purpose by the manager, the tribunal may give him directions with respect to any such matters.

(5) Without prejudice to the generality of subsection (4), an order under this section may provide—

- (a) for rights and liabilities arising under contracts to which the manager is not a party to become rights and liabilities of the manager;
- (b) for the manager to be entitled to prosecute claims in respect of causes of action (whether contractual or tortious) accruing before or after the date of his appointment;
- (c) for remuneration to be paid to the manager by any relevant person, or by the tenants of the premises in respect of which the order is made or by all or any of those persons;
- (d) for the manager's functions to be exercisable by him (subject to subsection (9)) either during a specified period or without limit of time.

- (6) Any such order may be granted subject to such conditions as the tribunal thinks fit, and in particular its operation may be suspended on terms fixed by the tribunal.
- (7) In a case where an application for an order under this section was preceded by the service of a notice under section 22, the tribunal may, if it thinks fit, make such an order notwithstanding—
 - (a) that any period specified in the notice in pursuance of subsection (2)(d) of that section was not a reasonable period, or
 - (b) that the notice failed in any other respect to comply with any requirement contained in subsection (2) of that section or in any regulations applying to the notice under section 54(3).
- (8) The Land Charges Act 1972 and the Land Registration Act 2002 shall apply in relation to an order made under this section as they apply in relation to an order appointing a receiver or sequestrator of land.
- (9) The appropriate tribunal may, on the application of any person interested, vary or discharge (whether conditionally or unconditionally) an order made under this section; and if the order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 2002, the tribunal may by order direct that the entry shall be cancelled.
- (9A) The tribunal shall not vary or discharge an order under subsection (9) on the application of any relevant person unless it is satisfied—
 - (a) that the variation or discharge of the order will not result in a recurrence of the circumstances which led to the order being made, and
 - (b) that it is just and convenient in all the circumstances of the case to vary or discharge the order.
- (10) An order made under this section shall not be discharged by the appropriate tribunal by reason only that, by virtue of section 21(3), the premises in respect of which the order was made have ceased to be premises to which this Part applies.
- (11) References in this Part to the management of any premises include references to the repair, maintenance, improvement or insurance of those premises.