



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

Case Reference : CHI/00HE/LVM/2024/0004

Property : The Old Foundry, Roseland, Liskeard,
Cornwall, PL14 3PQ

Applicant : Mr & Mrs G Mottram

Representative :

Respondents : Mr Sturrock and Mrs A Glanville (Flat 1)
Mr & Mrs D Martin (Flat 2)
Donald Ian Gerrard (Tribunal appointed
Manager)

Representative :

Type of Application : Variation of an order appointing a manager-
S.24 Landlord and Tenant Act 1987

**Tribunal
Member(s)** : Regional Judge Whitney
Regional Surveyor Coupe

Date of Hearing : 4 September 2024

Date of Decision : 4 September 2024

DECISION & DIRECTIONS

Communications to the Tribunal MUST be made by email to rpsouthern@justice.gov.uk. All communications must clearly state the Case Number and address of the premises.

1. On 15 May 2024 the Tribunal received an application from Mr and Mrs Mottram of Flat 3 to vary an Order for the Appointment of Manager made on 17 May 2023. The Applicant proposed that an alternative manager is appointed.
2. The current manager, Mr Gerrard, was appointed on 24 May 2021. This appointment was extended in 2023 until 30 June 2025. This application for an extension was made by the Applicant and supported by the then leaseholders.
3. The Applicants referred to the application being made on their own behalf and being supported by the other two leaseholders. The Applicants proposed “Andy” from Plymouth Block Management. No complete details were provided.
4. Directions were issued on 5th July 2024 listing the matter for a hearing on 4th September 2024. In accordance with those directions Mr Gerrard did provide a report. Mr Gerrard invited the Tribunal to release him from his appointment.
5. The leaseholders of the other two flats also supported the removal of Mr Gerrard reluctantly due to what was referred to as a breakdown of communication [102-104].
6. Whilst the Applicants sent various emails to the Tribunal they did not comply with the directions to file statements and nothing was received from their nominated manager. A bundle of 158 pdf pages was prepared and references in [] are to pages within that bundle.

Hearing

7. The hearing took place at approximately 1pm on 4th September 2024. The timing had been determined to accommodate Mr and Mrs Mottram and their health needs.
8. The following people attended:
 - Mr and Mrs Mottram (flat 3)
 - Mrs Martin (flat 2)
 - Ms Glanville (flat 1)
 - Mr Gerrard, Tribunal appointed manager
 - Mr Hendy, property manager from Freehold Management Services

9. Below is a precis only of the hearing which was recorded. We have only tried to record what is material to the decision we have to make. It was clear that many matters between Mr Gerrard and Mr and Mrs Mottram were not agreed.
10. At the commencement Mrs Mottram confirmed she had nothing from her nominated manager and in fact spoke to them a couple of days ago when they confirmed they did not wish to be nominated. They had supposedly suggested she might wish to nominate herself but she confirmed she did not wish to do so.
11. Ms Glanville confirmed she is the joint owner of Flat 1 with Mr Sturrock and her name is not Ms Corbyn. The Tribunal agreed to correct this within its decision.
12. Mr Gerrard confirmed he wished to be released given the circumstances. He relied upon his report [11-15]. The Tribunal asked him to go through his report which he did.
13. He explained he arranged for roof works. These were undertaken by a roofer whom the leaseholders nominated and whom he felt obliged to proceed with since not only were they the cheapest quote received but the leaseholders had collectively paid a deposit to this person.
14. On erection of the scaffolding issues arose with the neighbouring property. Mr Gerrard explained after sometime he was able to resolve and in fact described reaching an amicable position with the neighbour.
15. The roofer however failed to complete the works and disappeared. It transpired the roofer had not paid for the scaffolding and so whilst an alternative roofer was sourced to complete works these were delayed whilst negotiations were undertaken with the scaffolding firms so access could be made of the scaffolding.
16. Eventually this was resolved and works were undertaken, although the scaffolders offered a 2 week window only. The roofer did not undertake works to the gable end, fascia and down pipes and in reliance on what told by the roofer and the earlier building surveyors report these works were left.
17. Mr Gerrard described how contractors would attend and would be chased away by an elderly lady coming out of the Property described as wearing a dressing gown and stating her husband was in bed. He understood this to be Mrs Mottram.
18. As a result he indicated he struggled to get contractors to attend to quote for works. Further Mrs Mottram only wanted contractors to attend after 2pm which was unreasonable

19. Mr Gerrard explained that he had a Fire Risk Assessment undertaken. It recommended that a new front door was required to Mr and Mrs Mottram's flat. They would not agree to this.
20. Mr Gerrard felt he had reached an impasse with Mr and Mrs Mottram and without their co-operation he could not move forward. He described receiving over 200 emails which covered some 485 pages. He had never experienced this anywhere.
21. Mrs Martin and Ms Glanville had no questions for Mr Gerrard.
22. Mr and Mrs Mottram were allowed to ask questions.
23. Finally Mr Gerrard confirmed at the request of Mrs Mottram that all he has said was true to the best of his knowledge and belief. He stated that Mrs Mottram continued to have a belief she was in charge.
24. The Tribunal adjourned briefly at the request of Mrs Mottram.
25. Upon resumption Mrs Mottram responded to the matters raised.
26. She denied chasing contractors away stating she is rarely dressed before 2pm and does not own a dressing gown. She had spoken to a contractor installing emergency lighting.
27. She felt Mr Gerrard had not properly communicated with her. She wants a manager appointed but not Mr Gerrard.
28. Mrs Martin and Ms Glanville both stated a manager is required. They currently were unable to nominate anyone as they had only just been told that Mrs Mottram's nominee no longer wished to be appointed.
29. In closing Mrs Mottram stated she did not want to be responsible for the Property. She just had no one to currently nominate.

Decision

30. The Tribunal adjourned upon conclusion of the hearing and then after deliberation orally gave its decision with written reasons to follow.
31. The application before it was to vary the management order to remove Mr Gerrard and appoint a manager in his stead.
32. All parties present are agreed the Property needs a manager but that Mr Gerrard should be released. This includes Mr Gerrard.
33. We record that Mr Gerrard has made substantial strides to bring the Property back to order despite the difficulties he has faced. We thank him for his works to date.

34. We remain satisfied that it is just and convenient for a manager to be appointed. Whilst it seems Mr Mottram has some interest in the freehold the other joint owners whereabouts cannot be ascertained. Further it was apparent to this Tribunal that if the leaseholders are left to their own devices this will not work in our judgment.
35. However no one wants Mr Gerrard to continue including Mr Gerrard. Whilst that of itself may not be sufficient in all cases we are conscious here we have 3 flats only. Mr Gerrard's fees are modest and we commend the action he has taken. More works are required, all agree. Some degree of co-operation with leaseholders is required.
36. Taking account of all matters including everything within the bundle and the oral submissions made at the Tribunal we find Mr Gerrard should be released as the Tribunal appointed manager on 30th September 2024. We provide directions below.
37. We do not dismiss the application but adjourn on the basis of the directions below. We remind all leaseholders if a manager is appointed then it will be for them to manage the Property. It will be for them to determine what works are undertaken and when, and to choose the contractor to do such works (subject to any right of nomination of contractors).
38. Equally it is not reasonable to expect works external to flat 3 to only be undertaken after 2pm on any day. Whilst we have sympathy with the health needs of Mr and Mrs Mottram, and acknowledge the medical report she handed to us at the hearing, works need to be undertaken to the Property as a whole. It is in our judgment to expect works to be undertaken between 8am and 6pm Monday to Friday.
39. The parties are reminded anyone individually or as a group can nominate a manager. If no manager is nominated the application shall be dismissed and the current order will come to an end. We urge all leaseholders to take advice.

Directions

40. The Manager **Mr Donald Ian Gerrard** shall be released as at 30th September 2024. He shall prepare final accounts and a bundle of relevant documents including surveys, FRA and other documents within his possession and shall supply a copy to the Tribunal and each leaseholder electronically as soon as is practicable after 30th September 2024.
41. Mr Gerrard may issue a demand for any funds due and owing to him. If there is any surplus such funds shall be repaid to the persons who paid the same.

42. Any of the leaseholders jointly or severally may by **31st October 2024** nominate a manager to accept the positions as the Tribunal Appointed Manager for the Property in place of Mr Gerrard. Any person nominated must by 31st October 2024 send to the Tribunal and each of the other leaseholders a statement from the nominee covering:

- Their full name
- Professional qualifications
- Exhibiting a copy of their professional indemnity insurance policy which covers them personally
- Confirm that they are willing to accept a personal tribunal appointment.
- That they have read these directions, the Tribunal Guidance for managers and the leases for the property
- Confirm their proposed fees
- Provides a copy of their proposed management plan for the building

43. Upon receipt the Tribunal will fix a remote hearing to question the proposed manager.

44. If no nomination is received in accordance with these directions the Tribunal shall dismiss the same without hearing further representations.