



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

Case Reference : **LON/00BK/LVM/2024/0009**

Property : **175-177 Sussex Gardens, London,
W2 2RH**

Applicant : **Ben Preko, tribunal-appointed
manager**

Representative : **In person**

Respondents : **The leaseholders and freehold
owner of the Property and the
Management Company**

Representative : **Not represented**

Type of Application : **Variation of Appointment of
Manager under Section 24(9)
Landlord and Tenant Act 1987**

Tribunal Member : **Judge P Korn**

Date of Decision : **27 August 2024**

DECISION

Description of hearing

This has been a remote hearing on the papers. An oral hearing was not held because the Applicant requested a paper determination, the Respondent did not object, and the sums in dispute are relatively small.

Decision of the tribunal

The application to vary the Management Order is granted, and the Management Order is hereby varied as follows:-

- Paragraph 5(a) of the Management Order – amend “Service charge accounts for the years since 2018” so as to read “Service charge accounts for the years 24 March 2019 onwards”.
- Paragraph 41(a) of the Management Order – include after “prepare and submit to the Landlord and the Tenants an annual statement of account detailing all monies receivable, received and expended” the words “(but for the avoidance of doubt this obligation shall not extend to the year ended 24 March 2018)”.
- In the ‘Schedule of Additional Fees’ directly after paragraph 47 of the Management Order replace “2018,” with “ended 24 March”.

Introduction

1. On 27 May 2022 the tribunal made an order (“**the Management Order**”) appointing the Applicant as manager of the Property until 24 March 2027 on the terms set out in that order.
2. Pursuant to section 24(9) of the Landlord and Tenant Act 1987 (the “**Act**”), the Applicant now seeks to vary the Management Order in one specific respect.

Applicant’s explanation of background and of the variation sought

3. The Applicant states that the purpose of the Management Order was to provide for the management of the Property including (amongst other things) the preparation of service charge accounts from 2018 onwards. He states that some progress has been made in moving the management of the Property forward but that the preparation of the 2018 accounts remains a stumbling block.
4. At the time of the making of the Management Order the service charge accounts for the years ended 24 March 2018, 2019, 2020 and 2021 had not been prepared. Included within the Management Order was a requirement that the Management Company under the leases and its then managing agents provide all relevant information to enable the Applicant to prepare accounts for these years, but it now transpires that the then managing agents (NG Properties) inherited the management of the Property without the benefit of the appropriate account information for the year ended 24 March 2018.

5. Two different agents were involved simultaneously immediately prior to NG Properties' involvement but the Applicant has been unable to obtain any information or even make contact with either of them. The accountant involved at the time has been unwilling to engage. The Applicant has therefore concluded that to continue to try to pursue this information is futile and will curtail overall progress, and he states that "we are all therefore agreed" that a line should be drawn under the year ended 24 March 2018.
6. The application is therefore for the Management Order to be varied so as to remove the requirement for accounts to be produced for the year ended 24 March 2018. Draft accounts have been prepared for the year ended 24 March 2019 through to the year ended 24 March 2022.

Responses from the Respondents

7. The hearing bundle contains emails from a couple of leaseholders giving their informal support for the proposed variation. Nobody has made any submissions expressing opposition to the proposed variation.

Relevant statutory provisions

8. Landlord and Tenant Act 1987

Section 24

(9) *The appropriate tribunal may, on the application of any person interested, vary ... an order made under this section*

(9A) *The tribunal shall not vary ... an order under subsection (9) on the application of any relevant person unless it is satisfied – (a) that the variation ... 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 ... the order.*

Tribunal's analysis

9. Under section 24(9A) of the Act, the tribunal should not vary an existing order for the appointment of a manager unless satisfied (a) that the variation 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 the order.
10. The variation that has been requested is a very narrow one and it has been requested for a specific reason. The Applicant is taking steps to improve the management of the Property but has had difficulty

obtaining any information that would enable him to prepare service charge accounts for the year ended 24 March 2018.

11. Based on the information before me, despite making reasonable efforts to do so the Applicant has been unable to obtain the relevant information from previous managing agents or accountants. He has, though, obtained information in respect of the years ended 24 March 2019 to 2022 and has prepared draft accounts for those years.
12. The application has received active support from a couple of leaseholders, and nobody has opposed it. Having considered the information provided by the Applicant, I accept that there is no reason to believe that the variation if granted would result in a recurrence of the circumstances which led to the Management Order being made. I am also satisfied that, the Applicant having taken all reasonable steps to try to obtain the information needed to produce accounts for the year ended 24 March 2018 but having failed to obtain that information, it would be appropriate to release him from that obligation so that he can devote his full attention to those management issues which are within his control. Accordingly, I consider that it is just and convenient in all the circumstances of the case to vary the Management Order in the manner requested by the Applicant.
13. Frustratingly, the Applicant has not specified exactly how he wants the wording of the Management Order amended, but I consider it disproportionate to convene a hearing or to invite further written submissions on this point and therefore I set out below those amendments which it would appear the Applicant wishes to be made and which are hereby agreed:
 - Paragraph 5(a) of the Management Order – amend “Service charge accounts for the years since 2018” so as to read “Service charge accounts for the years 24 March 2019 onwards”.
 - Paragraph 41(a) of the Management Order – include after “prepare and submit to the Landlord and the Tenants an annual statement of account detailing all monies receivable, received and expended” the words “(but for the avoidance of doubt this obligation shall not extend to the year ended 24 March 2018)”.
 - In the ‘Schedule of Additional Fees’ directly after paragraph 47 of the Management Order replace “2018,” with “ended 24 March”.

Cost applications

14. There have been no cost applications.

Name: Judge P Korn

Date: 27 August 2024

RIGHTS OF APPEAL

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. 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.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. 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.