



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

Case reference : LON/00AG/LOA/2024/0002

Property : 71 Cathles Road, London SW12 9LF

Applicant : 71 Cathles Road RTM Company Ltd

Representative : RTMF Services Ltd

Respondent : Joanna Murray (Missing landlord)

Representative : None

Type of application : Right to manage

Tribunal member(s) : Mr Charles Norman FRICS

Date of decision : 6 August 2024

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that the Applicant was on the relevant date entitled to acquire the right to manage the premises pursuant to section 85(2) of the Act, and the Applicant will acquire such right within three months after this determination becomes final.

Reasons

1. The applicant seeks an order under s 85(2) of the Leasehold and Commonhold Reform Act 2002 granting it the right to manage the premises known as 77 Cathless Road in circumstances whereby the landlord cannot be traced.

2. The applicant initially filed evidence in support of the application including a s.79 notice which indicates that there are 2 qualifying tenants, and both are members of the RTM company. The applicant also filed evidence of its unsuccessful endeavours to trace the respondent landlord.
3. Direction 3 of directions of 24 June 2024 required the applicant to file a statement that notice of the application had been served by both qualifying tenants as required by s85(3) of the 2002 Act. It subsequently filed a witness statement from Mr N Bignell of RTMF Services Ltd confirming that a copy of the s.79 claim notice has been given to both qualifying tenants in accordance with s 85(3) of the Act.

The Law

4. Relevant legislation is set out in the attached legal appendix.

Findings

5. The Tribunal is satisfied that the applicant has complied with relevant legal tests. In particular it has taken reasonable steps to trace the missing landlord, which has proved unsuccessful. Accordingly, the application succeeds. The Tribunal determines that the Applicant was on the relevant date entitled to acquire the right to manage the premises pursuant to section 84(5)(a) of the Act.
6. Therefore, in accordance with section 90(4), three months after this determination becomes final the Applicant will acquire the right to manage these premises. According to section 84(7):

“(7) A determination on an application under subsection (3) becomes final—
(a) if not appealed against, at the end of the period for bringing an appeal, or
(b) if appealed against, at the time when the appeal (or any further appeal) is disposed of.”

Costs

7. Section 88(3) of the Act states:
“(3) An RTM company is liable for any costs which such a person incurs as party to any proceedings under this Chapter before the appropriate tribunal only if the tribunal dismisses an application by the company for a determination that it is entitled to acquire the right to manage the premises.”

8. In the light of the Tribunal's decision, there is no question of awarding any costs of the proceedings to the Respondent because the application for the right to acquire has not been dismissed.

Name: Mr C Norman FRICS

Date: 6 August 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).

LEGAL APPENDIX

[Commonhold and Leasehold Reform Act 2002 c. 15](#)

s. 78 Notice inviting participation



Version 2 of 2

1 October 2009 - Present

Subjects

Landlord and tenant; Real property

Keywords

Notices of invitation to participate; RTM companies

78 Notice inviting participation

(1) Before making a claim to acquire the right to manage any premises, a RTM company must give notice to each person who at the time when the notice is given—

(a) is the qualifying tenant of a flat contained in the premises, but

(b) neither is nor has agreed to become a member of the RTM company.

(2) A notice given under this section (referred to in this Chapter as a “*notice of invitation to participate*”) must—

(a) state that the RTM company intends to acquire the right to manage the premises,

- (b) state the names of the members of the RTM company,
 - (c) invite the recipients of the notice to become members of the company, and
 - (d) contain such other particulars (if any) as may be required to be contained in notices of invitation to participate by regulations made by the appropriate national authority.
- (3) A notice of invitation to participate must also comply with such requirements (if any) about the form of notices of invitation to participate as may be prescribed by regulations so made.
- (4) A notice of invitation to participate must either—
- (a) be accompanied by a copy of the [articles of association]¹ of the RTM company, or
 - (b) include a statement about inspection and copying of the [articles of association]¹ of the RTM company.
- (5) A statement under subsection (4)(b) must—
- (a) specify a place (in England or Wales) at which the [articles of association]¹ may be inspected,
 - (b) specify as the times at which they may be inspected periods of at least two hours on each of at least three days (including a Saturday or Sunday or both) within the seven days beginning with the day following that on which the notice is given,
 - (c) specify a place (in England or Wales) at which, at any time within those seven days, a copy of the [articles of association]¹ may be ordered, and
 - (d) specify a fee for the provision of an ordered copy, not exceeding the reasonable cost of providing it.
- (6) Where a notice given to a person includes a statement under subsection (4)(b), the notice is to be treated as not having been given to him if he is not allowed to undertake an inspection, or is not provided with a copy, in accordance with the statement.
- (7) A notice of invitation to participate is not invalidated by any inaccuracy in any of the particulars required by or by virtue of this section.

Notes

¹ Words substituted by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009/1941 [Sch.1 para.194\(17\)](#) (October 1, 2009)

Part 2 LEASEHOLD REFORM > Chapter 1 RIGHT TO MANAGE > Claim to acquire right > s. 78 Notice inviting participation

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s. 79 Notice of claim to acquire right



Law In Force

Version 2 of 2

1 July 2013 - Present

Subjects

Landlord and tenant; Real property

Keywords

Notices of claim; RTM companies

79 Notice of claim to acquire right

- (1) A claim to acquire the right to manage any premises is made by giving notice of the claim (referred to in this Chapter as a “*claim notice*”); and in this Chapter the “*relevant date*”, in relation to any claim to acquire the right to manage, means the date on which notice of the claim is given.
- (2) The claim notice may not be given unless each person required to be given a notice of invitation to participate has been given such a notice at least 14 days before.
- (3) The claim notice must be given by a RTM company which complies with subsection (4) or (5).
- (4) If on the relevant date there are only two qualifying tenants of flats contained in the premises, both must be members of the RTM company.
- (5) In any other case, the membership of the RTM company must on the relevant date include a number of qualifying tenants of flats contained in the premises which is not less than one-half of the total number of flats so contained.

- (6) The claim notice must be given to each person who on the relevant date is—
- (a) landlord under a lease of the whole or any part of the premises,
 - (b) party to such a lease otherwise than as landlord or tenant, or
 - (c) a manager appointed under [Part 2](#) of the [Landlord and Tenant Act 1987 \(c. 31\)](#) (referred to in this Part as “*the 1987 Act*”) to act in relation to the premises, or any premises containing or contained in the premises.
- (7) Subsection (6) does not require the claim notice to be given to a person who cannot be found or whose identity cannot be ascertained; but if this subsection means that the claim notice is not required to be given to anyone at all, [section 85](#) applies.
- (8) A copy of the claim notice must be given to each person who on the relevant date is the qualifying tenant of a flat contained in the premises.
- (9) Where a manager has been appointed under [Part 2](#) of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises, a copy of the claim notice must also be given to the [...] ¹ tribunal or court by which he was appointed.

Notes

- ¹ Words repealed by Transfer of Tribunal Functions Order 2013/1036 [Sch.1\(1\) para.132](#) (July 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/1036 art.6(3) and Sch.3)

Part 2 LEASEHOLD REFORM > Chapter 1 RIGHT TO MANAGE > Claim to acquire right > s. 79 Notice of claim to acquire right

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s. 80 Contents of claim notice



Version 1 of 1

26 July 2002 - Present

Subjects

Landlord and tenant; Real property

Keywords

Claims; Notices; RTM companies; Tenants

80 Contents of claim notice

- (1) The claim notice must comply with the following requirements.
- (2) It must specify the premises and contain a statement of the grounds on which it is claimed that they are premises to which this Chapter applies.
- (3) It must state the full name of each person who is both—
 - (a) the qualifying tenant of a flat contained in the premises, and
 - (b) a member of the RTM company,and the address of his flat.
- (4) And it must contain, in relation to each such person, such particulars of his lease as are sufficient to identify it, including—
 - (a) the date on which it was entered into,

- (b) the term for which it was granted, and
- (c) the date of the commencement of the term.
- (5) It must state the name and registered office of the RTM company.
- (6) It must specify a date, not earlier than one month after the relevant date, by which each person who was given the notice under [section 79\(6\)](#) may respond to it by giving a counter-notice under [section 84](#).
- (7) It must specify a date, at least three months after that specified under subsection (6), on which the RTM company intends to acquire the right to manage the premises.
- (8) It must also contain such other particulars (if any) as may be required to be contained in claim notices by regulations made by the appropriate national authority.
- (9) And it must comply with such requirements (if any) about the form of claim notices as may be prescribed by regulations so made.

Part 2 LEASEHOLD REFORM > Chapter 1 RIGHT TO MANAGE > Claim to acquire right > s. 80 Contents of claim notice

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s. 81 Claim notice: supplementary



Version 1 of 1

30 September 2003 - Present

Subjects

Landlord and tenant; Real property

Keywords

Claims; Notices; RTM companies; Supplemental provisions

81 Claim notice: supplementary

(1) A claim notice is not invalidated by any inaccuracy in any of the particulars required by or by virtue of [section 80](#).

(2) Where any of the members of the RTM company whose names are stated in the claim notice was not the qualifying tenant of a flat contained in the premises on the relevant date, the claim notice is not invalidated on that account, so long as a sufficient number of qualifying tenants of flats contained in the premises were members of the company on that date; and for this purpose a “sufficient number” is a number (greater than one) which is not less than one-half of the total number of flats contained in the premises on that date.

(3) Where any premises have been specified in a claim notice, no subsequent claim notice which specifies—

(a) the premises, or

(b) any premises containing or contained in the premises,

may be given so long as the earlier claim notice continues in force.

(4) Where a claim notice is given by a RTM company it continues in force from the relevant date until the right to manage is acquired by the company unless it has previously—

- (a) been withdrawn or deemed to be withdrawn by virtue of any provision of this Chapter, or
- (b) ceased to have effect by reason of any other provision of this Chapter.

Part 2 LEASEHOLD REFORM > Chapter 1 RIGHT TO MANAGE > Claim to acquire right > s. 81 Claim notice: supplementary

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s. 82 Right to obtain information



Law In Force With Amendments Pending

Version 1 of 2

30 September 2003 - Present

Subjects

Landlord and tenant; Real property

Keywords

Access to information; Notices; RTM companies

82 Right to obtain information

(1) A company which is a RTM company in relation to any premises may give to any person a notice requiring him to provide the company with any information—

(a) which is in his possession or control, and

(b) which the company reasonably requires for ascertaining the particulars required by or by virtue of [section 80](#) to be included in a claim notice for claiming to acquire the right to manage the premises.

(2) Where the information is recorded in a document in the person's possession or control, the RTM company may give him a notice requiring him—

(a) to permit any person authorised to act on behalf of the company at any reasonable time to inspect the document (or, if the information is recorded in the document in a form in which it is not readily intelligible, to give any such person access to it in a readily intelligible form), and

(b) to supply the company with a copy of the document containing the information in a readily intelligible form on payment of a reasonable fee.

(3) A person to whom a notice is given must comply with it within the period of 28 days beginning with the day on which it is given.

Part 2 LEASEHOLD REFORM > Chapter 1 RIGHT TO MANAGE > Claim to acquire right > s. 82 Right to obtain information

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s. 85 Landlords etc. not traceable



Law In Force

Version 2 of 2

1 July 2013 - Present

Subjects

Landlord and tenant; Real property

Keywords

Landlords; RTM companies

85 Landlords etc. not traceable

(1) This section applies where a RTM company wishing to acquire the right to manage premises—

(a) complies with [subsection \(4\) or \(5\) of section 79](#), and

(b) would not have been precluded from giving a valid notice under that section with respect to the premises,

but cannot find, or ascertain the identity of, any of the persons to whom the claim notice would be required to be given by [subsection \(6\)](#) of that section.

(2) The RTM company may apply to [the appropriate tribunal]¹ for an order that the company is to acquire the right to manage the premises.

(3) Such an order may be made only if the company has given notice of the application to each person who is the qualifying tenant of a flat contained in the premises.

(4) Before an order is made the company may be required to take such further steps by way of advertisement or otherwise as is determined proper for the purpose of tracing the persons who are—

- (a) landlords under leases of the whole or any part of the premises, or
- (b) parties to such leases otherwise than as landlord or tenant.

(5) If any of those persons is traced—

- (a) after an application for an order is made, but
- (b) before the making of an order,

no further proceedings shall be taken with a view to the making of an order.

(6) Where that happens—

(a) the rights and obligations of all persons concerned shall be determined as if the company had, at the date of the application, duly given notice under [section 79](#) of its claim to acquire the right to manage the premises, and

(b) the [...]² tribunal may give such directions as it thinks fit as to the steps to be taken for giving effect to their rights and obligations, including directions modifying or dispensing with any of the requirements imposed by or by virtue of this Chapter.

(7) An application for an order may be withdrawn at any time before an order is made and, after it is withdrawn, subsection (6)(a) does not apply.

(8) But where any step is taken for the purpose of giving effect to subsection (6)(a) in the case of any application, the application shall not afterwards be withdrawn except—

- (a) with the consent of the person or persons traced, or
- (b) by permission of the [...]² tribunal.

(9) And permission shall be given only where it appears just that it should be given by reason of matters coming to the knowledge of the RTM company in consequence of the tracing of the person or persons traced.

Notes

- 1 Words substituted by Transfer of Tribunal Functions Order 2013/1036 [Sch.1\(1\) para.134\(a\)](#) (July 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/1036 art.6(3) and Sch.3)

- 2 Words repealed by Transfer of Tribunal Functions Order 2013/1036 [Sch.1\(1\) para.134\(b\)](#) (July 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/1036 art.6(3) and Sch.3)

Part 2 LEASEHOLD REFORM > Chapter 1 RIGHT TO MANAGE > Claim to acquire right > s. 85 Landlords etc. not traceable

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s. 87A Costs: general



Not Yet In Force

Version 1 of 1

Date to be appointed - Date to be appointed

Subjects

Landlord and tenant; Real property

[

87A Costs: general

- (1) An RTM company and a member of an RTM company are not liable for any costs incurred by any other person in consequence of a claim notice given by the company in relation to any premises, except as set out in this section.
- (2) A lease, transfer, contract or other arrangement is accordingly of no effect to the extent it would provide to the contrary.
- (3) An RTM company is liable to a member of the company in respect of costs incurred by the member to the extent agreed between the company and the member.
- (4) A member of an RTM company—
 - (a) is liable to the company in respect of costs incurred by the company to the extent agreed between the member and the company;
 - (b) is liable to another member of the company in respect of costs incurred by that other member to the extent agreed between the two members.
- (5) An RTM company or a member of an RTM company are liable for costs incurred by another person in connection with proceedings before a court or tribunal if—

(a) the court or tribunal has power under another enactment to order that they pay those costs, and

(b) the court or tribunal makes such an order.

(6) An RTM company and a member of an RTM company are liable for costs incurred by another person in the circumstances referred to in [section 87B](#).

(7) For the purposes of this section, "member", in relation to an RTM company, means each person who is or has been a member of the RTM company.

(8) See also [sections 20CA](#) and [20J](#) of the [Landlord and Tenant Act 1985](#), which prevent costs in connection with a claim under this Chapter being recovered by way of a variable service charge (within the meaning of [section 18](#) of that Act).

]¹

Notes

¹ Added by Leasehold and Freehold Reform Act 2024 c. 22 [Pt 3 s.50\(3\)](#) (date to be appointed)

Part 2 LEASEHOLD REFORM > Chapter 1 RIGHT TO MANAGE > Claim to acquire right > s. 87A Costs: general

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s. 88 Costs: general



Law In Force With Amendments Pending

Version 2 of 3

1 July 2013 - Present

Subjects

Landlord and tenant; Real property

Keywords

Expenses; RTM companies

88 Costs: general

(1) A RTM company is liable for reasonable costs incurred by a person who is—

(a) landlord under a lease of the whole or any part of any premises,

(b) party to such a lease otherwise than as landlord or tenant, or

(c) a manager appointed under [Part 2](#) of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,

in consequence of a claim notice given by the company in relation to the premises.

(2) Any costs incurred by such a person in respect of professional services rendered to him by another are to be regarded as reasonable only if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs.

(3) A RTM company is liable for any costs which such a person incurs as party to any proceedings under this Chapter before [the appropriate tribunal]¹ only if the tribunal dismisses an application by the company for a determination that it is entitled to acquire the right to manage the premises.

(4) Any question arising in relation to the amount of any costs payable by a RTM company shall, in default of agreement, be determined by [the appropriate tribunal]¹.

Notes

- ¹ Words substituted by Transfer of Tribunal Functions Order 2013/1036 [Sch.1\(1\) para.135](#) (July 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/1036 art.6(3) and Sch.3)

Part 2 LEASEHOLD REFORM > Chapter 1 RIGHT TO MANAGE > Claim to acquire right > s. 88 Costs: general

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s. 90 The acquisition date



Law In Force

Version 1 of 1

30 September 2003 - Present

Subjects

Landlord and tenant; Real property

Keywords

Acquisitions; Dates; RTM companies

90 The acquisition date

(1) This section makes provision about the date which is the acquisition date where a RTM company acquires the right to manage any premises.

(2) Where there is no dispute about entitlement, the acquisition date is the date specified in the claim notice under [section 80\(7\)](#).

(3) For the purposes of this Chapter there is no dispute about entitlement if—

(a) no counter-notice is given under [section 84](#), or

(b) the counter-notice given under that section, or (where more than one is so given) each of them, contains a statement such as is mentioned in [subsection \(2\)\(a\)](#) of that section.

(4) Where the right to manage the premises is acquired by the company by virtue of a determination under [section 84\(5\)\(a\)](#), the acquisition date is the date three months after the determination becomes final.

(5) Where the right to manage the premises is acquired by the company by virtue of [subsection \(5\)\(b\) of section 84](#), the acquisition date is the date three months after the day on which the person (or the last person) by whom a counter-notice containing a statement such as is mentioned in [subsection \(2\)\(b\)](#) of that section was given agrees in writing that the company was on the relevant date entitled to acquire the right to manage the premises.

(6) Where an order is made under [section 85](#), the acquisition date is (subject to any appeal) the date specified in the order.

Part 2 LEASEHOLD REFORM > Chapter 1 RIGHT TO MANAGE > Acquisition of right > s. 90 The acquisition date

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