



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

Case reference : **LON/00AS/LAM/2024/0014**

Property : **Flats 1-20 Coldharbour Lane House,
Coldharbour Lane, Hayes, Middlesex
UB3 3HD**

Applicant : **Talveer Singh Calay**

Representative : **I/P**

Respondents : **Jai & Vibha Sharma**

Representative : **Jai Sharma**

Type of application : **Appointment of Manager**

Tribunal members : **Judge Tagliavini MRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of hearing : **18 November 2024**
Date of decision : **5 December 2024**

DECISION

The tribunal's decision

1. The tribunal finds that the applicant has satisfied s.24(2)(a)(i) and (iii) of the Landlord and Tenant Act 1987 and that it is just and equitable to appoint a Manager for **Flats 1-20 Coldharbour Lane House, Coldharbour Lane, Hayes, Middlesex UB3 3HD ('the building)**.
 2. However, the tribunal finds that Mr Manraj Bisran is not a suitable person to be appointed as a Manager by the tribunal for the reasons given below and therefore it declines to do so.
 3. The tribunal considers in light of its findings, that it is reasonable to make an order under s.20C of the Landlord and Tenant Act 1985, so that none of the respondent's costs of this tribunal can be added to the service charge.
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The application

4. This is an application by the leaseholder of Flat 5 seeking the appointment of a manager pursuant to 24(1) of the Landlord and tenant Act 1987 ('the 1987 Act'). He applicant also seeks an Order pursuant to s.20C of the Landlord and Tenant Act 1985.

Background

5. The subject premises comprised 20 flats on the second and third floors over commercial premises on the ground floor. The roof space is retained by the superior landlord and is let to communications companies for the siting of their aerials and media equipment.
6. The respondents are the head lessees and are obliged to provide certain services in accordance with the provisions of the lease. The respondents are also the long leaseholders of five flats within the building.
7. Previously the tribunal has considered and determined an application in respect of the payability of service charges made by a number of the leaseholders in *Ref: LON/00AS/LSC/2021/0206*. On 28 January 2024, a Preliminary Notice pursuant to s.22 of the Act was served on the respondents by the leaseholders of Flats 1, 4, 5, 6, 9, 12, 17 18 and 20. This Notice alleged numerous failings to maintain the communal parts of the building and to provide a reasonable standard of services at a reasonable cost. The respondents were also said to have failed to make demands for payment of service charges in accordance with the terms of the lease and or keep a proper account of the service charges demanded from all leaseholders and received from them.

8. Specifically, the leaseholders alleged that the respondents had failed:
- (i) To keep in repair the communal entrance door.
 - (ii) To repair or secure a broken window.
 - (iii) To investigate and remedy a water leak in the communal hallway.
 - (iv) To provide a copy of the insurance schedule and confirm insurance is in place.
 - (v) To provide information on and details about the nature and extent of the respondents' expenditure as head lessors, which they have recovered by 'setting-off' the sums due from them as leaseholders of 5 flats.
 - (vi) To explain or provide evidence of the service charge accounts/payments/balances when there was a change of bank provider.
 - (vii) To explain the invoices for the ground rent demanded in differing amounts.
 - (viii) To provide year-end certificates for April 2021 to May 2022 and April 2022 to December 2022.
 - (ix) To provide leaseholders with a Statement of Account.
 - (x) To provide a reasonable management service at a reasonable cost.
 - (xi) To provide a reasonable cleaning service for the communal areas.
 - (xii) To confirm the installation and location of the communal electricity meter that was previously provided from Flat 1 (of which the respondents are the leaseholders).

The hearing

9. An oral hearing was held at which the parties relied on an electronic hearing bundle of 559 pages. In addition, the applicant and Manraj Bisran, his choice of Manager he wished the tribunal to appoint gave oral evidence. Mr Sharma and his managing agent Mr Umesh Pasricha also gave oral evidence to the tribunal.

Reasons for the tribunal's decision

10. In considering its decision the tribunal had regard to the s.24(2) of the Landlord and Tenant Act 1987 which states:

(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 or prohibited 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;

(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.

11. The tribunal also had regard to the relevant covenants and obligations of the respondents as set out in clause 6 and Parts 1 and 2 of The Fourth Schedule of the lease.
12. The tribunal finds the subject property is poorly managed by Mr Umesh Pasricha on behalf of the respondent. The tribunal appreciates that the nature of the building situate above a row of commercial premises along what appears to be a well-used street, makes the upkeep of the building a challenge in terms of cleanliness and security. However, the tribunal finds that Mr Pasricha has effectively 'inherited' the management of the building from his father, when the latter retired, but is not himself a widely experienced managing agent as his own business is that of an Estate Agent rather than as a property managing agent.
13. However, despite the inherent difficulties in ensuring the cleanliness and the security of the subject property, the tribunal finds the respondents has failed in its obligations to the applicant as set out in paragraph 8 above. In particular, the tribunal finds that the preparation of service charge estimates, demands and collection of service charges from all leaseholders has been inadequate and unreasonable.
14. The tribunal finds that by reason of the respondents' longstanding professional relationship with Mr Pasricha's father and now with Mr Pasricha himself, that he accepts almost without any, or any substantive challenge, the respondents' assertions they are owed a certain amount of money due to having paid for certain items of expenditure 'out of their own pocket.'
15. The tribunal finds neither the respondents nor their managing agent have any appreciation of the fact that the obligations of a head lessor are distinct and separate from those owed to and by a leaseholder. Further, the tribunal finds that neither the respondents nor their managing agent have any realisation of the proper procedures that should be followed in demanding and collecting payment of service charges from all leaseholders, including the respondents as leaseholders of 5 flats.
16. The tribunal finds the respondents continual 'setting off' the service charges due and payable by them as leaseholders and their putting their own interests as head lessors over and above their obligations and duties owed by them to the applicant and other leaseholders, has caused a continuous deficit to accrue in the service charges collected. This has generated a distrust of them among other leaseholders, as well as causing a lack of proper cleaning, repairing and maintenance of the building due to a lack of funds. The respondents have exacerbated this state of affairs by their lack of transparency in providing proper demands, service charge accounts and explanations to the applicant and the other leaseholders of the money held in the service charge account.

17. The tribunal finds that s.24(2)(a)(ii) and (iii) of the 1987 are satisfied and that it is reasonable and appropriate to appoint a Manger.
18. In considering whether Mr Bisran is a suitable person to be appointed the tribunal had regard to the Management Proposal and Draft Management Order he had produced for the tribunal. Although, the absence of any previous tribunal appointment as a Manager, the tribunal had regard to Mr Bisran's lack of academic and professional qualifications as well as his lack of experience of managing properties. Mr Bisran told the tribunal he had only expanded his role in 2021, from that of sales and letting properties into block management, with a current portfolio of four residential blocks.
19. The tribunal was concerned to learn of Mr Bisran's reliance on other members of his small company to help in his role as a Manager were he to be appointed and his lack of knowledge of the legal requirements a landlord is placed under when organising major works or demanding payment of service charges. Further, the tribunal was surprised that Mr Bisran showed a distinct lack of curiosity in how to acquire this knowledge.
20. The tribunal therefore determines that Mr Bisran is not a suitable person to be appointed as a Manager. The tribunal also doubted whether his proposed charge of £25 per month per unit would or could cover the cost of the proper time intensive management of this building, in view of the long, acrimonious history between the parties and the mismanagement by the respondents.
21. In conclusion the tribunal determines it is appropriate for a Manager to be appointed but finds Mr Bisran is not a suitable person to be appointed. Therefore, the tribunal refuses the application.
22. Having regard to its decision and the reasons for it, the tribunal considers it appropriate to make an order under s.20C of the Landlord and Tenant Act 1985 so that none of the respondents' costs of and associated with this application are added to the service charge.

Name: Judge Tagliavini

Date: 5 December 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).