



**Case Reference** : **LON/00BG/LRM/2024/0022**

**Property** : **87-89 Watney Street, London E1 2TF**

**Applicants** : **87-89 Watney Street RTM Company Ltd**

**Representative** : **The Leasehold Advice Centre**

**Respondent** : **Plush Properties Ltd**

**Representative** : **Eagerstates Ltd**

**Type of Application** : **Application in relation to the denial of the Right to Manage**

**Tribunal Members** : **Judge S Brilliant**  
**Ms M Krisko FRICS**

**Date and Venue** : **02 December 2024**  
**10 Alfred Place, London WC1E 7LR**

**Date of decision** : **03 December 2024**

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**DECISION**

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1. By a claim notice dated 30 April 2024, the applicant RTM company made a claim to the respondent landlord that it was entitled to acquire the right to manage 87-89 Watney Street, London E1 2TF (“the premises”).
2. The premises consist of seven flats above a shop.
3. By a counternotice dated 11 June 2024, the respondent landlord denied the applicant had established the right to manage.
4. Three grounds of objection were given.

#### The first objection

5. The first objection was that the internal floor area of the non-residential part of the premises exceeded 25% of the internal floor area of the premises taken as a whole: see s.72(6) and schedule 6 to the Commonhold and Leasehold Reform Act 2002 (the Act”).

#### The second objection

6. The second objection was that the notice of invitation to participate was not given to each person as required by s.78(1) of the Act.

7. Section 78(1) of the Act provides:

*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.*

#### The third objection

8. The third objection was that the notice of invitation to participate was not given in time to each person as required by s.79(2) of the Act.

9. Section 79(2) of the Act provides:

*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.*

#### Directions

10. On 14 August 2024, Mr Jagger MRICS gave directions and ordered that the matter be dealt with without an oral hearing.

11. On 21 November 2024, Judge Tagliavini debarred the respondent from playing any further role in these proceedings because of persistent and serious breaches of the directions given.

12. We turn to each of the objections.

#### The first objection

13. It was wholly disingenuous for the respondent to have persisted with this objection after it had obtained a surveyor's report in July 2024. This report showed that the non-residential part was 13.34% of the whole. This objection fails.

#### The second and third objections

14. Of the seven qualifying tenants, the owners of flats 2 and 4 were the only ones not to be, or intending to be, members of the RTM company. Notice of intention to participate was given to the owners of flats 2 and 4 a month before the claim notice. These objections fail.

#### Conclusion

15. The respondent's case was wholly without merit. The application fees must be reimbursed.

**Name:** Judge Simon Brilliant **Date:** 03 December 2024

#### **Appendix:**

#### Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Subject 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 subject 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).