



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

Case reference : **CAM/22UG/LRM/2025/0002**

Property : **Wickham House, 1 Northgate Street,
Colchester, CO1 1HA**

Applicant : **Wickham House RTM Company Limited**

Representative : **RTMF Services Limited**

Respondent : **Assethold Limited**

Representative : **Scott Cohen Solicitors Limited**

Type of application : **Application in relation to the denial of
the right to manage**

Tribunal : **Judge K Neave**

Date of decision : **23 June 2025**

DECISION

Decision

The Tribunal:

- (1) determines that the Applicant was on the relevant date entitled to acquire the right to manage the Property; and
- (2) orders the Respondent to pay £100 to the Applicant to reimburse the tribunal application fee paid by it.

Reasons

Application

1. By an application made on 8 November 2024, the Applicant RTM company (registration number 15901559) applied to the tribunal under section 84(3) of the Commonhold and Leasehold Reform Act 2002 (the “**Act**”) for a determination that, on the relevant date, it was entitled to acquire the right to manage the Property.

Background

2. By a claim notice dated 1 October 2024, the Applicant gave notice that it intended to acquire the right to manage the Property on 15 February 2025.
3. By a counter notice dated 5 November 2024, signed by Lorraine Scott of Scott Cohen Solicitors Limited, the Respondent disputed the claim on various grounds, only two of which are pursued in these proceedings.

Procedural history

4. Directions were given on 28 April 2025. The Respondent was directed to produce a fully detailed statement of case, to include legal submissions, which would be treated as its case. The Applicant was directed to file a statement in response if it so wished. Both parties complied with the directions and prepared statements of case, which I have considered in detail.
5. The directions provided that the tribunal would determine this matter on or after 16 June 2025 based on the documents provided unless either party requested a hearing.
6. Neither party requested a hearing. Accordingly, by Rule 31(3) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the “**Rules**”), the parties are taken to have consented to this matter being decided without a hearing. I am satisfied that a hearing is not necessary to determine the issues in this case.

Issues

7. It was apparent from the statements of case that the following issues remain in dispute and require resolution namely:
 - a) in respect of the notices inviting participation:
 - i. whether Freedom Investment Group Limited was the qualifying tenant of Flat 10 at the time when the notice inviting participation was served.
 - ii. whether the Applicant was required to serve a notice inviting participation on Freedom Investment Group Limited.
 - iii. whether failure to serve a notice inviting participation upon Freedom Investment Group Limited invalidated the claim notice later served by the Applicant.

- b) in respect of the claim notice, whether the notice complied with the Act in respect of the period of time given to the Respondent to serve a counter-notice.

Notices inviting participation

8. By section 78(1) of the Act, “*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.*”
9. It is not in dispute that i) a notice inviting participation was sent in respect of Flat 10 to Aileen Dodds on 22 August 2024; and ii) no notice inviting participation was sent to Freedom Investment Group Limited before the claim notice was served.
10. The Applicant’s case is that Ms Dodds was the qualifying tenant of Flat 10 on 22 August 2024. This is because, on 20 August 2024, it obtained an official copy of the register relating to the leasehold interest in Flat 10 which identified Ms Dodds as the registered leasehold owner thereof.
11. I have seen the official copy of the register issued by HMLR to the Applicant on 20 August 2024. It states that it shows the entries on the register of title on 7 August 2023. It appears that this is because on 7 August 2023 an application was made to register a transfer of the leasehold interest to Freedom Investment Group Limited which had not been completed before 20 August 2024. It identifies Ms Dodds as the registered proprietor of the leasehold interest in Flat 10.
12. The Respondent has provided an official copy of the register for the leasehold interest in Flat 10 which was issued to the Respondent by HMLR on 22 October 2024. The proprietorship register records that Freedom Investment Group Limited was registered as the owner of the leasehold interest in Flat 10 on 7 August 2023 (i.e. its registration was backdated to the date of the application).
13. Accordingly, the notice inviting participation for Flat 10 was sent to Ms Dodds during the “registration gap” (that is to say, the period of time between 7 August 2023 and the date of completion of the transfer to Freedom Investment Group Limited by registration). In my judgment, having considered the two title documents, the Applicant has established on the balance of probabilities that at the time that the notice inviting participation was served, Ms Dodds was the legal lessee and Freedom Investment Group Limited the equitable lessee of Flat 10.
14. As was made clear in paragraphs 57 – 59 of ***Avon Freeholds Limited v Cresta Court E Rtm Company Ltd*** [2024] UKUT 335 (LC) (“Cresta Court E”) where there is both a legal lessee and an equitable lessee, the qualifying tenant is the legal lessee. Accordingly, the Applicant properly

served the notice inviting participation in this case on Ms Dodds as the legal lessee and the qualifying tenant. I do not understand that this aspect of the decision in Cresta Court E is subject to any appeal, and in any event I am bound by the decision of the Upper Tribunal.

15. If I am wrong about this and Freedom Investment Group Limited was the qualifying tenant of Flat 10 on 22 August 2024, the Applicant has also provided a statement of case, signed by a statement of truth, which states that on 13 August 2024, Mr Kohan, the sole director of Freedom Investment Group Limited, signed a consent form agreeing to become a member of the Applicant RTM company. I have seen a copy of the consent form and confirmation that Mr Kohan is the sole director of Freedom Investment Group Limited.
16. Having considered the Applicant's statement of case and the documents referred to above, I am satisfied that the Applicant has demonstrated on the balance of probabilities that, if Freedom Investment Group Limited was the qualifying tenant of Flat 10 on 22 August 2024, the exception in section 78(1)(b) of the Act applies. There was no need to serve a notice inviting participation on Freedom Investment Group Limited because it had already agreed to become a member of the Applicant RTM Company.
17. As I have found that the notice inviting participation was either given to Ms Dodds as the qualifying tenant of Flat 10 or was not required to be given to Freedom Investment Group Limited, I do not go on to consider whether any failure to serve a notice inviting participation upon Freedom Investment Group Limited invalidated the claim notice later served by the Applicant.

The claim notice

18. By section 80(6) of the Act, a claim notice must specify a date for service of a counter-notice not earlier than one month after the notice is given.
19. There is no dispute that I should calculate the date of service from which the one-month period runs from the date on which service of the claim notice was actually effected on the Respondent.
20. The Respondent's case is that it did not receive the claim notice until 9 October 2024. As the date specified in the claim notice was 8 November 2024, the Respondent contends that the notice was invalid.
21. The Applicant has provided a copy of a bulk certificate of posting and two proof of delivery certificates. The posting certificate was stamped by Royal Mail on 1 October 2024 and states that documents were posted to the Respondent on that date by first class post. The delivery certificates state that two items sent by special delivery were signed for at 10:58am on 3 October 2024. The Applicant's statement of case, signed with a statement of truth, confirms that these posting and delivery certificates related to the notice of claim sent to the Respondent, which was dispatched both by first class post and special delivery.

22. Having carefully considered the detailed evidence given in the Applicant's statement of case, which is supported by independent and reliable documentary evidence, against the bare assertion made by the Respondent about the date that it received the claim notice, I find that the Applicant has proved on the balance of probabilities that the Respondent was actually served with the claim notice on 3 October 2024 such that the claim notice specified a date for the counter notice which was not earlier than one month after service.
23. I accordingly find that the notice was not invalid as the Respondent asserts.

Conclusion

24. I am satisfied for the reasons set out above that the Applicant was on the relevant date entitled to acquire the right to manage the property.

Costs

25. Under Rule 13, the tribunal has discretion to order reimbursement of tribunal fees. The Applicant is the successful party in this application. I order the Respondent to pay £100 to the Applicant to reimburse the tribunal application fee paid by it.

Name: Judge K Neave

Date: 23 June 2025

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).