



FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference : MAN/00CX/HTB/2024/0001

Premises : 501 VM1, Victoria Mills, Salt Mills Road, Shipley, BD17 7EE

Applicant : Victoria Mills Tenants' Association

Respondent : Saltaire Facilities Management Ltd.

Type of Application : Recognition of tenants' association under s.29 of the Landlord and Tenant Act 1985

Tribunal members : Judge P Forster
Mr J Faulkner FRICS

Date of Decision : 29 May 2023

DECISION

Decision

The Tribunal grants a certificate of recognition to Victoria Mills Tenants' Association for a period of 5 years.

Background

1. The Tribunal received an application for a certificate of recognition for Victoria Mills Tenants' Association, being an established tenants' association in relation to premises known as 501 VM1, Victoria Mills, Salt Mills Road, Shipley, BD17 7EE ("the Premises").
2. The application was made under s.29 of the Landlord and Tenant Act 1985 ("the Act"). The Respondent is Saltaire Facilities Management Ltd. the freehold owner of the Premises and the landlord under the long leases.
3. On 12 March 2024, the Tribunal gave directions for the conduct of this matter. The parties were informed that the application would be determined on the papers unless either party gave notice requiring an oral hearing to be arranged. No such notice was received, and we have therefore determined the application upon consideration of the papers supplied by the parties.

The Law

4. An association which is a "recognised tenants' association" as defined by s.29(1) of the Act has certain rights concerning the management of the Premises concerned: it has the right: –
 - to nominate contractors for tender in a statutory consultation process carried out by the landlord under s.20 of the Act;
 - to be sent copy estimates obtained for the purposes of such a consultation process;
 - to ask for a summary of costs incurred by a landlord (s.21);
 - to inspect relevant accounts and receipts for expenditure (s.22);
 - to ask for a written summary of insurance cover; and
 - to ask to be consulted about the appointment or re-appointment of a managing agent (s.30B).
5. An association of qualifying tenants may be recognised for these purposes by notice given by the landlord. Alternatively, it may be recognised by a certificate given by the Tribunal under s.29(1)(b)(i) of the Act.
6. In deciding whether to grant a certificate of recognition, the Tribunal must apply the Tenants' Associations (Provisions Relating to Recognition and Provision of Information) (England) Regulations 2018 ("the Regulations").
7. Regulation 3 lists the following matters to which the Tribunal must have regard when deciding whether to give a certificate of recognition:

- the composition of the membership of the tenants' association;
- the tenants' association's rules regarding membership, including whether tenants who are not qualifying tenants are entitled to become members;
- the tenants' association's rules regarding decision making;
- the tenants' association's rules regarding voting;
- the extent to which any fees or charges payable in connection with membership of the tenants' association apply equally to all members;
- the extent to which the constitution of the tenants' association takes account of the interests of all members;
- the extent to which the tenants' association is independent of the landlord of the dwellings to which the association relates;
- whether the tenants' association has a chairperson, secretary and treasurer;
- whether the constitution of the tenants' association may be amended by resolution of the members and the rules regarding amendment;
- whether the tenants' association's constitution, accounts and list of members are kept up to date; and available for public inspection; and
- the extent to which the association operates in an open and transparent way.

8. Regulation 4 provides that the Tribunal must not give a certificate of recognition in certain circumstances: where the tenants' association represents fewer than 50% of the qualifying tenants; where a previous certificate is still in force; and where the Tribunal is not satisfied that the constitution and rules of the tenants' association are fair and democratic.

Grounds for the application

9. The Applicants refer to the previous application under reg.11 of the 2018 Regulations and the previous Tribunal's decision dated 10 January 2024 (MAN/00CX/HTB/2023/0001). This provided that if the Respondent failed to comply with reg.4(5) the need for the Association to represent at least 50% of the qualifying tenants in an application for a certificate of recognition under s.29(1)(b)(i) of the Act would no longer apply. The Respondent has not complied with the Tribunal's previous decision and therefore the Applicant applies for a certificate of recognition, despite not reaching the threshold of at least 50% of qualifying tenants.

Respondent's response

10. In its response dated 17 April 2024, the Respondent refers to the Tribunal's decision but does not claim to have complied with reg.4(5) of the Regulations. It seeks to relitigate matters which have already been decided. It is stated that: "... *if the court (sic) will not defer their decision until after the FTT then we would fully respect this decision. However, we would like to ask the court (SIC) to put firm guidelines/boundaries in place due to the current dispute for the RA to abide by*".

Consideration

11. The Respondent has not complied with reg.4(5) of the Regulations, and it follows in accordance with the previous Tribunal's decision dated 10 January 2024 that the requirement to for the Applicant to represent at least 50% of the qualifying tenants is dispensed with.
12. The Respondent has not objected to the recognition of the tenants' association but has expressed concerns as to the members' views of the rights this recognition will bring. The scope and powers of a recognized tenants' association are set out in law. The Tribunal can neither extend nor limit these rights.
13. The Tribunal is satisfied that there are no circumstances which prevent it giving a certificate of recognition in this case. Indeed, having reviewed a copy of the association's rules and constitution and having had regard to the matters specified in regulation 3, it is satisfied that it is appropriate to give such a certificate and that the association should thereby be recognized under the Act for a period of five years.

29 May 2024
Judge P Forster

RIGHT OF APPEAL

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

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