

RESIDENTIAL PROPERTY TRIBUNAL**Leasehold Valuation Tribunal****Case reference: LON/00BE/LRM/2007/0009****Application under Section 84(3) of the Commonhold and Leasehold Reform Act 2002 (the 'Act')****Applicant: 67 Chadwick Road RTM Company Limited****Respondent: Cyril Freeman Limited****Premises: 67 Chadwick Road, London, SE15 4PU****Paper Determination: 31st August 2007****The Tribunal: Professor James Driscoll LLM, LLB, Solicitor****DECISION**

In the absence of a counter-notice given under Section 84(1) of the Commonhold and Leasehold Reform Act 2002 the Tribunal has no jurisdiction to make an order under Section 84(3) of the Act. Accordingly the application made under Section 84(3) is dismissed.

THE APPLICATION

- 1 The Applicant is a company incorporated in accordance with Sections 73 and 74 of the Act and under Regulations made under the Act to act as the RTM company on behalf the leaseholders. The premises consists of three flats all held on qualifying leases. The members of the Applicant company are the leaseholders.
- 2 The Respondent is the freeholder of the premises and the landlord under the leases of the flats.

3 The Applicant seeks an order under Section 84(3) of the Act that it
was on the relevant date entitled to acquire the right to manage
(‘RTM’) the premises.

4 On the 6th July 2006 a company by the name of Canonbury
Management, acting as agent for the Applicant, served notice
claiming the RTM on the Respondent.

5 On the 3rd August the Respondent served a counter-notice denying
the claim contending that the notice referred to a different landlord,
was incorrectly signed, and was in consequence an invalid RTM
notice.

6 It appears that the Applicants made no application to the Tribunal
under Section 84(3) of the Act in relation to that notice and the
counter-notice.

7 According to Canonbury Management, a further RTM notice was
served on the Respondent on the 15th September 2006. In this
notice the Respondent was given until the 15th October 2006 to
serve a counter-notice. Canonbury Management also stated that
no counter-notice to this claim notice was given.

8 This second RTM claim notice stated that the acquisition date for
the acquisition of the RTM was the 27 January 2007. In a letter to
the Tribunal dated the August, the Respondent stated that it had
not received this second RTM claim notice.

9 On the 18th July 2007 application was made for an order under
Section 84(3) of the Act that the Applicants are entitled to acquire
the RTM. Directions were given on the 26 July 2007. These
included directions requiring the filing of documents and proposing
that the application be determined without an oral hearing. The
parties did not notify the Tribunal that either of them required an
oral hearing.

10 In accordance with these directions each party sent to the Tribunal
the documents they rely on.

- 11 The following documents were included In the Applicant's bundle:
- a. A copy of the Directions
 - b. The Application and supporting documentation
 - c. A statement from Canonbury Management on the conduct of the RTM applications
 - d. Two letters from the Respondents.

12. The Respondents included the following documents in their bundle:
- a. The RTM notice given on the 6 July 2006
 - b. A letter dated the 18th July 2006 from the Respondent's then managing agents to Canonbury Management contending that this RTM notice was invalid.
 - c. A letter dated the 2 August 2006 repeated this contention.
 - d. A counter-notice given on or about the 3 August 2006.
 - e. Office copy entries showing that it is the Respondents, not the company stated in the first RTM notice, is the owner of the freehold to the subject premises.

- 12 The Respondents also wrote to the Tribunal on the 30th August stating that they had not received the second notice.

REASONS FOR THE DECISION

- 13 A determination was made on the 31st August 2007 that the Tribunal has no jurisdiction to make an order under Section 83.
- 14 The Tribunal has jurisdiction to make an order if the landlord serves a Counter-notice and the RTM company representing the leaseholders makes application within the time prescribed by the Act. No such application was made in relation to the first abortive RTM claim. It appears that no counter-notice was served in relation to the second RTM claim. In these circumstances the Tribunal has no jurisdiction to make an order under Section 84(3) of the Act.
- 15 Assuming the second RTM notice was validly served the Applicant acquired the RTM on the 27 January 2007. The Tribunal makes no findings in relation to service save to note that the County Court has

jurisdiction under Section 107 of the Act to enforce obligations under the RTM. Section 111 of the Act governs Service of RTM claim notices.

Signed..... *James Driscoll*

(James Driscoll, LLM, LLB, Solicitor)

Dated: 31st August 2007