



Residential
Property
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
DECISION BY LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL**

LANDLORD AND TENANT ACT 1987 Section 22

Ref: LON/00BK/LAM/2006/0024

Property: 18-24 Warwick Way
London
SW1V 1RX

Applicants: Mr M Barnett (Flat 8)
Miss I Woodthorpe-Browne (Flat 7)
Mrs M Ware (Flat 2)
Mrs R Feige (Flat 9)
Mr G Brown (Flat 4)
Mr P Summers (Flat 6) (Tenants)

Respondent: Aziz Group Plc (Intermediate Landlord)
Drakesfield Estates Ltd (Managing Agents)

Appearances: Mr M Barnett, Miss I
Woodthorpe- Browne and Mrs M Ware

Proposed Manager: Moretons

Tribunal: Mrs V T Barran BA (Oxon)
Ms S Wilby

**Date of preliminary Hearing
and decision:** 24 January 2007

DECISION

The Tribunal declines to make an order dispensing with the requirement for the tenants to serve a notice under section 22 of the Landlord and Tenant Act 1987 ("the Act") prior to an application for an order to appoint a manager.

REASONS

Background

1. The Tribunal received an application dated 4 December 2006 for the Appointment of a Manager under section 24 of the Act. The Applicants also sought dispensation from the requirement to serve a notice under section 22 of the Act.
2. The Tribunal decided to hold a preliminary hearing to decide whether or not dispensation under the section 22 should be awarded. The parties were asked provide a brief statement as to why dispensation should be granted or not and particularly why it was not reasonably practicable to serve a section 22 notice. The parties were referred to section 22(3) of the Act. That is the **sole issue** for the Tribunal to determine at the preliminary hearing.

3. The Law

Landlord and Tenant Act 1985 S22 Preliminary notice by tenant.

- (1) *Before an application for an order under section 24 is made in respect of any premises to which this Part applies by a tenant of a flat contained in those premises, a notice under this section must (subject to subsection (3)) be served [by the tenant on--]
[(i) the landlord, and
(ii) any person (other than the landlord) by whom obligations relating to the management of the premises or any part of them are owed to the tenant under his tenancy.]*
- (2) *A notice under this section must—
(a) specify the tenant's name, the address of his flat and an address in England and Wales (which may be the address of his flat) at which [any person on whom the notice is served] may serve notices, including notices in proceedings, on him in connection with this Part;
(b) state that the tenant intends to make an application for an order under Section 24 to be made by a leasehold valuation tribunal in respect of such premises to which this Part applies as are specified in the notice, but (if paragraph (d) is applicable) that he will not do so if the [requirement specified in pursuance of that paragraph is complied with];
(c) specify the grounds on which the court would be asked to make such an order and the matters that would be relied on by the tenant for the purpose of establishing those grounds;*

- (d) where those matters are capable of being remedied by [any person on whom the notice is served, require him], within such reasonable period as is specified in the notice, to take such steps for the purpose of remedying them as are so specified; and
- (e) contain such information (if any) as the Secretary of State may by regulations prescribe.
- (3) **a leasehold valuation tribunal may** (whether on the hearing of an application for an order under section 24 or not) by order **dispense with the requirement to serve a notice under this section** [on a person] in a case **where it is satisfied that it would not be reasonably practicable to serve such a notice on the [person]**, but a leasehold valuation tribunal may, when doing so, direct that such other notices are served, or such other steps are taken, as it thinks fit.

The Applicants' case

4. In the application the applicants stated that they seek dispensation because they have been "battling with problems (of poor management) for over five years without improvement". At the preliminary hearing they confirmed that no section 22 notice had been served on the Respondent. They emphasised their continuing problems with poor management and asserted that the Respondent had not acted in accordance with a previous decision of the LVT on Flat 8 (Ref: LON/00BK/LSC/2003/0009). They stated that previous attempts over several years to resolve a range of issues had been unsuccessful. The property comprises nine flats in a purpose built block over a Tesco supermarket.
5. However those attending the hearing accepted that it would be reasonably practicable to serve a s.22 notice on the respondents, via their Managing Agents.

The Respondent's case

6. The Respondent did not attend the preliminary hearing. D rakesfield E states Ltd had sent in written representations, confirming that they act on behalf of the intermediate landlord Aziz Group Plc. They did not address the question at issue, namely whether the Tribunal should dispense with the s.22 notice, but gave details of recent management issues.

Decision

7. As explained at the preliminary hearing, a Tribunal's decision to appoint a manager is a draconian step. The Tribunal's powers in this respect can generally only be exercised after the preliminary steps set out in s.22 of the Act have been taken. The landlord (who has management responsibilities under the leases) generally should be given the opportunity to remedy the matters complained of by tenants, within a reasonable timescale.
8. In this instance the landlord does have a managing agent with a known address. Dialogue between the parties does exist, albeit there are a considerable number of matters in dispute.
9. The Tribunal was not persuaded that any exceptional grounds exist that would justify dispensation with the preliminary notice under s.22 of the Act.

10. The Tribunal wishes to emphasise that this decision relates solely to the question of the preliminary notice and that it makes no decision as to whether or not grounds exist that would lead to it making an order for the appointment of a manager, or whether it would be just and convenient to do so in the future.

Chairman



V.T.Barran

Date: 24 January 2007