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**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
IN RESPECT OF JURISDICTION IN RESPECT OF AN APPLICATION
UNDER S.27A OF THE LANDLORD AND TENANT ACT 1985, AS AMENDED**

**Case Reference Nos: LON/00AW/LSC/2009/0840
LON/00AW/LSC/2009/0796**

Property: 11 Draycott Place
London
SW3 2SE

Applicant: 11 Draycott Place RTM Company Limited

Respondents: Mr & Mrs A Stylianou (Flat 1)
Mr & Mrs B Rigby (Flat 2)
Mr G Costa (Flat 4)

Tribunal: Mrs J S L Goulden JP
Mr I B Holdsworth BSc MSc FRICS

**Date of Tribunal's
Decision:** 23 March 2010

Background

1. The Applicant company, 11 Draycott Place RTM Company Ltd., had sought a determination of the Respondent's liability to pay service charges. There were two S.27A applications, the first of which was dated 24 November 2009 (against Mr & Mrs S A Stylianou), and the second of which was dated 14 December 2009 (against Mr & Mrs B Rigby and Mr G Costa).
2. Both applications had been made by Mr A Bordelais as a Director of and on behalf of the Applicant company. The two applications have now been linked.
3. The Tribunal's Directions of 9 February 2010 stated. *"If that is correct the application may be a nullity in which case the Tribunal would have no jurisdiction to consider it. Consequently the extent of the Tribunal's jurisdiction will be considered as a preliminary issue at an oral hearing."*

Hearing

4. The hearing took place on 10 March 2010. Mr G Buttimore of Counsel attended on behalf of all of the Respondents. He said that he also represented the Applicant Company since Mr Bordelais had been removed as Director thereof following a meeting on 16 December 2009.
5. Mr Bordelais did not appear and was not represented.
6. Mr Buttimore helpfully provided a skeleton argument to the Tribunal. This stated inter alia:-

"It is contended that Mr Bordelais has and had no authority to bring the proceedings on behalf of the applicant company.... It is in any event clear

that the applications purportedly brought on behalf of the company should be struck out....

It is the Respondents' case that Mr Bordelais has been acting improperly both during his time as sole director of the Claimant (which is likely to give rise to further proceedings in due course) and afterwards (first by refusing to acknowledge the due appointment of his co-directors and then by refusing to acknowledge his removal as director). The LVT applications form part of this pattern of behaviour."

7. Mr Buttimore referred to two meetings which had been held on 3 November 2009 and 16 December 2009. In the first meeting on 3 November 2009 the Respondents were appointed as Directors of the Applicant company in addition to Mr Bordelais who had been Sole Director up to that time. In the second meeting on 16 December 2009, Mr Bordelais was removed as a Director.
8. Mr Buttimore added that it was intended to issue proceedings against Mr Bordelais in the Chancery Division of the High Court (Companies Court) and maintained that since Mr Bordelais was no longer the Sole Director on or after 3 November 2009 he had no authority to issue LVT proceedings. He produced an authority in support, being the case of *Mitchell & Hobbs (UK) Ltd -v- Mill* (1996) 2 BCLC102.
9. In his skeleton argument, Mr Buttimore said. *"Both sets of LVT proceedings were issued after 03/11/09, and as Mr Bordelais did not have the requisite authority at that time: they should therefore be struck out. In any event, he is no longer a director of the company, and the company does not wish to pursue the applications"*.

The Tribunal's Determination

10. Mr Bordelais was, at the time of the issue of both S.27A applications dated 24 November 2009 (against Mr & Mrs S. Stylianou) and 14 December 2009 (against Mr & Mrs B Rigby and Mr G Costa) a Director of the Applicant Company and therefore in the view of the Tribunal entitled to lodge the applications.
11. Although the Tribunal has been provided with particulars of claim and other documentation relating to proceedings in the High Court, Mr Buttimore conceded that proceedings had not yet been issued and therefore the issue as to Mr Bordelais standing within the Applicant company has not been determined. Mr Buttimore did make representations to the Tribunal as to the extent of Directors powers within a limited company and whether Mr Bordelais had the authority to make the applications without consultation with his fellow Directors. However, it was conceded by Counsel at the hearing that the Tribunal has no remit to consider this aspect of the matter.
12. Unless and until it is determined Mr Bordelais is not a Director of the RTM Company Limited and does not have the authority to make the S.27A applications, the applications are live.
13. Having made this decision it is noted that in respect of both applications lodged at the Tribunal, Mr Bordelais has not adhered to Directions with the result that the matters are not proceeding in a timely manner.
14. Mr Buttimore indicated that he would wish the two applications to be dismissed but of course Mr Bordelais would have to receive formal notification from the Tribunal with the appropriate time to respond in accordance with Regulations.

15. Accordingly the solicitors for the Respondents are to notify the Clerk to the Tribunal within 14 days of the date of this Decision if they wish dismissal of the two applications to be considered by the Tribunal together with full grounds for that request.

16. It should be noted that if nothing is heard within 14 days of the date of this Decision, further Directions will be issued.

CHAIRMAN:

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DATED:

.....23 March 2010.....