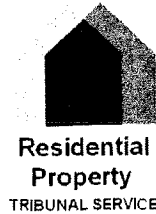




HM Courts
& Tribunals
Service

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LONDON RENT ASSESSMENT PANEL

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER THE COMMONHOLD AND LEASEHOLD REFORM
ACT 2002 PART 2 CHAPTER 1**

Case References LON/00AZ/LRM/2012/0034

Premises:

1-29 SILVERDALE HOUSE 1-5 SILVERDALE LONDON SE26 4SD

Applicants:

**THE SILVERDALE WAREHOUSE
MANAGEMENT RTM CO LIMITED**

Respondent:

**SINCLAIR GARDENS INVESTMENTS
(KENSINGTON) LIMITED**

**Leasehold
Tribunal:**

**Valuation Mrs T Rabin
Mr R Humphrys**

**Date of
determination:**

paper 11th March 2013

PRELIMINARY

1. The Tribunal was dealing with applications by the Applicant requiring the Tribunal to determine the following:
 - (a) Whether the Applicant was on the relevant date entitled to acquire the Right to Manage 1-29 Silverdale House 1-5 Silverdale London SE26 4SD ("the Property")
 - (b) Whether the Notices Inviting Participation in the prescribed form had been served 14 days prior to the service of the Claim Notice on all qualifying tenants entitled to receive the same
 - (c) Whether the Claim Notice complied with Section 80 of the Commonhold and Leasehold Reform Act 2002 ("the Act") in relation to the description of "the premises " in the grounds on which it is claimed that Act applies to the premises
 - (d) Whether the Notice of Claim was properly signed.
2. The applications have been made under Sections 84(3) and 88(4) of the Act
3. The Applicant served Notice of Claim ("the Claim Notice") on the Respondent on 26th September 2012 following the service of a Notice of Invitation to Participate on all qualifying tenants on 9th May 2012. The Respondent served a counter notice dated 25th October 2012 ("the Counter Notice") in which the Respondent denied that the Applicant had the right to manage the Property as they did not comply with the legislative requirements under the Act.
4. The parties agreed that the Tribunal could consider the application on consideration of the documents only and without a hearing and the parties submitted bundles of documents which were carefully considered by the Tribunal.

THE EVIDENCE

5. The Tribunal considered the Notice of Invitation to Participate served on the participating tenants and the Claim Notice served on the Respondent. The Respondent's statement of case and the cases law submitted were reviewed, as were the additional submissions from both parties.
6. In the Respondent's response to the Applicant's case the Respondent appears to have acknowledged that the Notices Inviting Participation in the prescribed form had been served 14 days prior to the service of the Claim Notice and this was not a matter that remained to be considered by the Tribunal.

7. The Respondent maintained that the Notice to Participate and the Claim Notice needed to be signed by and "authorised member or officer" in accordance with Schedule 2 of the Right to Manage (Prescribed Particulars and Forms) (England) Regulations 2010 ("the Regulations") and that the Claim Notice had been signed by a person who was not a member or officer of the Applicants. This failure was, in the opinion of the Respondent, sufficient to make the Claim Notice invalid.
8. The Respondent also maintained that the Claim Notice failed to comply with Section 80(2) of the Act in that it failed to identify the "premises" adequately and that this omission made the Claim Notice invalid. The reasoning that there could be confusion about what had been included and there was no clarity as to whether other property was or was not included and whether there were any appurtenances.
9. The Applicants maintained that the Notices were properly dated in accordance with the Act and that all requested information had been provided to the Respondent within a reasonable time. The Claim Notice clearly defined the extent of the "premises" and that there can be no doubt that appurtenant property is expressly defined and that there is a more detailed in the description in the leases referred to in Section 2 of the Claim Notice.

THE TRIBUNAL'S DECISION

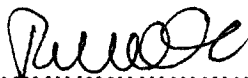
10. No explanation was given and the Tribunal was at a loss to understand why the Respondent claimed that the Notices Inviting Participation had not been served 14 days prior to the service of the Claim Notice as the dates are 9th May 2012 and 16th September 2012 respectively. The Respondent's point is unclear and no reference is made in the Statement of Case. For the avoidance of doubt the Tribunal determines that the required 14 day period did elapse.
11. The Respondent has considered the Claim Notice and the Respondent's submissions as well as the case law to which the Tribunal was referred. Although the Tribunal has not inspected, it is clear that the Property is a single block of flats with common parts and grounds and the cases to which the Tribunal was referred in general relate to properties where there are more than one building which may give rise to confusion about which property is included. The Claim Notice is clear in Section 1 describing the "premises" as "Flats 1-29, Silverdale House, 1-5 Silverdale, London, SE26 4SD". This is a clear description of the Property and in addition in Section 2 where describing "the premises" it states that

"the leases of the building define the development and access way which includes the gardens, grounds, drives surrounding the building"

12. The Tribunal is satisfied that it is evident that the Claim Notice relates to Silverdale House and the surrounding land. The wording follows the statutory wording exactly and there can be no confusion. The description of the "appurtenant property" is clearly set out in Sections 1 and 2 of the Claim Notice. In the Tribunal's view there can be no doubt that the Claim Notice refers to Flats 1-29 Silverdale House, 5 Silverdale can leave no one in any doubt that the Applicants are seeking to manage the Property in its entirety. It should also be noted that the owner of the Property who has been managing it through itself or its agents and they are no doubt familiar with the Property. Common sense dictates that a company wanting to manage the Property would want to manage the whole of the Property and that was clearly specified in the notice. The Tribunal can find no error in the Claim Notice, material or otherwise..
13. The Respondent has claimed that signature of the Notice to Participate and the Claim Notice by a person who was not a member or officer of the Applicant invalidated the Notice of Claim as it failed to comply with Schedules 1 and 2 of the Regulations. The Applicants have failed to deal with this point. The Respondent has referred the Tribunal to **Assethold Ltd and 14 Stansfield Road RTM Company Ltd** which deals with this point which the Respondent claims supports its position. He also pointed out that the regulations allow for an agent to sign the Counter Notice and that this distinction enforces his view.
14. The Tribunal has had regard to the **Assethold** case and in particular paragraph 18 which states:
- "The applicants contention has force, it is clear only of the words in square brackets ["signature by authorised member of authorised officer"] are to be treated as imposing a limitation on who may sign the form. The applicant says they are to be so treated because that is what the notice "clearly provides". In my judgement, however, that is not correct. If the form had provided for the status of the signatory to be stated (for example" ["insert as appropriate" "member" or, if officer, position held)"]", there would be obvious force in the contention. The fact that it does not do this, however, suggests that the words are not to be treated as imposing a limitation on who may sign. My conclusion is that it is sufficient that the person signing, "by authority of the company" does in fact have that authority."
15. The tribunal is no doubt that the signatory had the authority of the Applicants and was authorised to sign. Indeed with the nit picking approach to finding fault in RTM applications, it is not surprising that tenants feel the need to instruct professionals to guide them through this minefield.

CONCLUSION

16. The Applicant can exercise the Right to Manage in accordance with the Claim Notice. This right cannot be exercised until 3 months after this determination becomes final in accordance with Section 84(7) of the Act

SIGNED 

MRS T I RABIN JP
11th March 2013