



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : LON/00BB/LRM/2015/0006

Property : 393 Dersingham Avenue, London,
E12 6JX

Applicant : 393 Dersingham Avenue RTM Co
Ltd

Representatives : Canonbury Management Ltd

Respondent : Mr P Singh

Representative : Did not attend and was not
represented

Type of Application : Section 84(3) of the Commonhold
& Leasehold Reform Act 2002

Tribunal Members : Judge I Mohabir
Mr I B Holdsworth BSc MSc FRICS

**Date and venue of
Hearing** : 18 March 2015
10 Alfred Place, London WC1E 7LR

Date of Decision : 18 March 2015

DECISION

Introduction

1. This is an application made by the Applicant pursuant to section 84(3) of the Commonhold and Leasehold Reform Act 2002 (as amended) (“the Act”) for a determination that it was on the relevant date entitled to acquire the right to manage the property known as 393 Dersingham Avenue, London, E12 6JX (“the property”).
2. The Tribunal was told that the property is comprised of 3 flats, which are known as Flats A, B and C. Ms Crnobrnja and Mr Yeboah, the leaseholders of Flats A and B respectively are both members of the RTM company and participate in this application.
3. By a letter dated 24 September 2014, the leaseholder of Flat C, Mr Grillo, was served with a notice of invitation of the same date by Canonbury Management Ltd (“Canonbury”) who represents the participating leaseholders. Mr Grillo did not become a member of the RTM company or elect to participate in the application.
4. By a claim notice dated 4 December 2014, the Applicant exercised the entitlement to acquire the right to manage the property by Canonbury serving the notice on the Respondent.
5. By a counter notice dated 6 January 2015, the Respondent served a counter notice denying that the Applicant was entitled to acquire the right to manage the property on the basis that section 79(2) of the Act had not been complied with. No particulars were given in the counter notice by the Respondent as to how he asserted that the section had not been complied with by the Applicant.
6. By an application dated 28 January 2015, the Applicant applied to the Tribunal for a determination of the issue as to whether it was entitled to acquire the right to manage the property. On 5 February 2015, the Tribunal issued Directions. The Respondent did not comply with those Directions.

Decision

7. The hearing in this matter took place on 18 March 2015. Mr McElroy of Canonbury represented the Applicant. The Respondent did not attend and was not represented.
8. Section 79(2) of the Act provides:
“The claim notice may not be given unless each person required to be given a notice of invitation to participate has been given such a notice at least 14 days before.”
9. Section 78(1) of the Act sets out those persons who are to be served with a notice of invitation as being each of the qualifying tenants of a flat who neither is nor has agreed to become a member of the RTM company. Therefore, in the present case that is Mr Grillo of Flat C, as the other two leaseholders were already members of the RTM company.
10. Mr McElroy submitted that the requirement of section 79(2) had been satisfied by Mr Grillo having been served with a notice of invitation to participate dated 24 September 2014 and that the Applicant was entitled to acquire the right to manage the property.
11. Given that the Respondent had not appeared at the hearing and was not represented and to better understand his case, the Tribunal issued short Directions requiring him to particularise why he asserted that section 79(2) of the Act had not been complied with. By a statement of case dated 1 April 2015, but not received by the Tribunal until 9 April 2015, the Respondent simply repeated his assertion that section 79(2) of the Act had not been complied with. No further details were provided by him.
12. In the absence of any evidence to the contrary, the Tribunal found that, as the only non-member of the RTM company, Mr Grillo was the only leaseholder who the Applicant was obliged under section 78(1) to serve with the notice of invitation and that it had done so under cover of a

letter dated 24 September 2014. In addition, the Tribunal found that the notice of invitation had been served not less than 14 days before the claim notice was served. Accordingly, the Tribunal was satisfied that the requirement of sections 79(2) of the Act had satisfied.

22. Therefore, pursuant to section 90(4) of the Act, the Tribunal determined that the Applicant shall acquire the right to manage 3 months from the date of this decision.

Judge I Mohabir

11 May 2015