



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

Case Reference : **MAN/00BP/LRM/2014/0018**

Property : **Flats 1 – 32 of the Victory, 165 Union Street,
Oldham OL1 1TD**

Applicant : **The Victory RTM Company Limited**

Representative : **Urban Owners**

Respondent : **Drake Hall Ltd**

**Type of
Application** : **Commonhold and Leasehold Reform Act
2002 – section 84 (3)**

**Tribunal
Members** : **JM Going
Deputy Regional Judge J Holbrook**

Date of decision : **8th of April 2015**

DECISION

The decision

The Applicant was entitled to acquire the right to manage the property on 27th of October 2014.

The application

1. The Applicant has applied to the First-Tier Tribunal Property Chamber (Residential Property) (“the Tribunal”) under section 84(3) of the Commonhold and Leasehold Reform Act 2002 (“the Act”) for a determination that it was entitled to acquire the right to manage the property on the relevant date.

Background

2. The property is a self-contained building containing 32 flats on 5 floors above retail units on the ground floor.

3. The Applicant is a company formed to acquire the right to manage the property.

4. On 27 October 2014 the Applicant served a claim notice under section 79 of the Act stating that the Applicant intended to acquire the right to manage the property.

5. The claim notice required any counter notice to be given not later than 30 November 2014. The Respondents served a counter notice on 11 November 2014.

6. The application was made to the Tribunal on 18th of December 2014.

7. The Tribunal issued Directions to the parties stating that the matter would be dealt with on the basis of the written evidence without the need for an oral hearing, unless either party requested the opportunity to make oral representations. Neither party requested an oral hearing.

8. Written evidence and representations were received from both parties.

9. The Tribunal convened on the 1 April 2014 without the parties to make its determination.

The Law

10. The relevant law is found in sections 71 – 113 in Chapter 1 of Part 2 of the Act

11. The Act provides a no fault right for a minimum number of qualifying leaseholders of residential flats to acquire the right to manage a building through a properly constituted right to manage company (RTM company) provided various procedural requirements are satisfied. The landlord's consent is not required.

12. Section 74 sets out the persons entitled to be members of a RTM company. Section 75 specifies who is a qualifying tenant of a flat within the relevant premises. Section 78 makes provision for the notices that must be given by an RTM company to each person who is a qualifying tenant.

12. Section 79 (6) states that the claim notice must be given to each person on the relevant date who is landlord under a lease of the whole or any part of the premises. The relevant date is defined by section 79(1) as the date on which the notice of the claim is given

13. Those given a claim notice may give a counter notice- section 84 .

14. Section 84 (2) of the Act states that:-

A counter notice is a notice containing a statement either –

(a) admitting that the RTM company was on the relevant date entitled to acquire the right to manage the premises specified in the claim notice, or

(b) alleging that, by reason of a specified provision of this chapter, the RTM company was not on that date so entitled.

Evidence and submissions

15. The Respondent in the counter notice alleged that the Applicant was not entitled to acquire the right to manage the premises because of a failure to provide certain evidence said to be required under the Act.

16. However the Respondent later in its statement of case to the Tribunal confirmed that it was, following receipt of further information, satisfied that the notice of claim was correct.

17. The Respondent went on however to submit to the Tribunal that the Applicant should not be entitled to manage the premises, questioning whether the Applicant could demonstrate an ability to manage the premises, and voicing concerns that the Applicant had not felt able to confirm that there would be a continuity of managing agents.

18. The Applicant stated that the Respondent had provided no reference in case law or legislation to show that its continuing objection provided a valid reason for the Tribunal to deny the Applicant's right to manage the premises.

The Tribunal's Reasons and Conclusions

19. Having carefully considered the evidence before it, the Tribunal found that the Respondent had not provided any evidence of a valid ground of objection to the Applicant's claim notice.

20. A landlord's consent is not required. The legislation does not require a RTM company to provide a Landlord with information as to how the company proposes to manage the building. There is no statutory requirement for the employment of a particular manager or for any prior management experience by the RTM company – and nor, of course, are there any such requirements for landlords. That having been said an RTM company will be required, like any other landlord, to comply with government approved codes of management practice, and where a right to manage has been acquired the landlord is also entitled to become a member of the RTM company.

21. Where a landlord disputes the claim, the grounds for dispute are limited those grounds specified in the Act which can be summarized shortly as where the building does not qualify; or the RTM company does not comply with the legislative requirements; or the members of the RTA company do not represent half of flats in the building.

22. The Respondent has not alleged any such grounds and has acknowledged that the claim notice was valid.

23. As a consequence the Tribunal has determined that the Applicant was entitled to a right manage the property on the relevant date, being 27th of October 2014.