



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

Case Reference : **MAN/OOBS/LRM/2014/0013**

Property : **Metcalf Court, Metcalfe Drive, Romiley,
Stockport SK6 3BF**

Applicant : **Metcalf Court Romiley RTM Company**
Representative : **Mayfield Law**

Respondent : **Fairhold Homes (No 7) Limited**
Representative : **Estates & Management Limited**

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

Tribunal Members : **Laurence Bennett (Tribunal Judge)
Jonathan Holbrook (Tribunal Judge)**

Date of determination : **19 February 2015**

DECISION

Application

1. Metcalfe Court Romiley RTM Company Limited applies for a determination under Paragraph 84(3) of the Commonhold and Leasehold Reform Act 2002 (the Act) that it was entitled to acquire the right to manage Metcalfe Court, Metcalfe Drive, Romiley, Stockport SK6 3BF (the Property) on 1 December 2014.

Background

2. The Property is a building containing 59 flats let on long leases.
3. The Applicant is a company formed to acquire the right to manage the Property.
4. Following invitation to the Lessees of all flats to participate in the right to manage and notice to them under Section 78 of the Act a claim notice under Section 79 of the Act dated 17 July 2014 was served on the Respondent on 18 July 2014. The claim notice required any counter notice to be given no later than 31 August 2014.
5. A counter notice dated 21 August 2014 was received at the Applicant's agents Messrs Jones Associates. The counter notice alleged that "The Applicant was not entitled to acquire the right to manage the premises specified in the claim notice" for reasons set out therein. The notice was signed "Estates & Management Limited duly authorised agent of Fairhold Homes (No 7) Ltd."
6. The application was made to the Tribunal on 14 October 2014. In accordance with directions made by a Tribunal Judge on 4 November 2014 both parties have provided written submissions. Neither requested an oral hearing of the application.
7. By a letter dated 20 November 2014 Estates & Management Limited stated that "On behalf of Fairhold Homes (No 7) Ltd we hereby withdraw the Counter Notice dated 21 August 2014. We calculate that the scheme will therefore go Right to Manage on 20 February 2015."
8. The Applicant's statement of case in response to a further direction following the letter referred to in paragraph 7 submits that the counter notice was invalid "Because it was not signed in accordance with s44 of the Companies Act 2006." The submissions include an application for a costs order.
9. The Respondents subsequent statement of case denies that the Applicant is entitled to costs and contains its own application for costs up to the date of the RTM application under s88-89 of the Act. It does not address the Companies Act execution issue.
10. The Tribunal convened on 19 February 2015 without the parties to make its determination.

The Law

11. The relevant law is found in Sections 71 to 113 in Chapter 1 of Part 2 of the Act.
12. Section 74 sets out the persons entitled to be members of a right to manage company. Section 75 specifies who is a qualifying tenant of a flat within the relevant premises. Section 78 makes provision for the notice that must be given by an RTM company to each person who is a qualifying Tenant.

13. Section 79(6) states that the claim notice must be given to each person who on the relevant date is a Landlord under a Lease of the whole or any part of the premises. The relevant date is stated by Section 79(1) as: "The date on which notice of the claim is given."
14. Section 84 provides for the service of a counter notice alleging that the RTM company was not entitled to acquire the right to manage. Section 84(3) enables an RTM company that has been given such a counter notice to apply to the Tribunal for a determination that it was on the relevant date entitled to acquire the right to manage the premises.

Costs applications

15. The Tribunal has noted an urgent request for clarification of the relevant date for commencement of the Right to Manage and has postponed the costs applications for separate consideration. Costs determinations will be subject to further consideration.

Tribunal's conclusions

16. The Tribunal has examined the counter notice. It is purported to be signed by a Limited Company as agent for the Landlord Limited Company. The Applicant is correct in referring to the Companies Act 2006 provisions setting the requirements for valid signature or execution by or on behalf of a Limited Company. The counter notice does not comply. We conclude it has not been validly executed and as such cannot be considered a valid counter notice.
17. We conclude that the counter notice is ineffective to deny the Applicant's right to manage claim on the effective date set out in the claim notice 1 December 2014.

Order

18. The Tribunal determines that the Applicant was entitled to acquire the right to manage the Property on the relevant date 18 July 2014 effective 1st December 2014.