



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

**Case Reference** : **LON/00BF/LRM/2018/0035**

**Property** : **47 Park Hill, Carshalton SM5 3SD**

**Applicant** : **47 Park Hill (Carshalton) RTM  
Company Ltd**

**Representative** : **Mr. S Wiles of Prime Property  
Management**

**Respondent** : **Westleigh Properties Limited**

**Representative** : **Tollhurst Fisher Solicitors**

**Types of Application** : **RTM**

**Tribunal Members** : **Judge Tagliavini  
Miss M Krisko FRICS**

**Date and venue of  
Hearing** : **21 February 2019  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **21 February 2019**

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**DECISION**

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## **Decisions of the tribunal**

- I. The tribunal determines the Claim Notice dated 15 October 2018, seeking to acquire the Right to Manage the property located at 47 Park Hill, Carshalton SM5 3SD is a valid notice.**
  - II. The tribunal determines that the Respondent is to pay the Applicant's costs of £1515 (including VAT) pursuant to rule 13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013**
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## **The application**

1. This is an application made pursuant to the provisions of the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act"), seeking the tribunal's determination as to validity of a Claim Notice dated 15 October 2018, seeking the Right to Manage the subject property situate at 47 Park Hill, Carshalton SM5 3SD.
2. In opposition to the Applicant seeking to acquire the right to manage, the Respondent in a Counter Notice dated 15<sup>th</sup> November 2018 asserted that the Claim Notice had failed to satisfy the requirements of section 80 of the 2002 Act. However, the Respondent did not specify what information had not been supplied that was required by this section despite having been directed to do so by the tribunal.
3. In a Statement in Response dated 17 February 2019 the Applicant asserted that the requirements of section 80 had been met and referred the tribunal to the information contained in the notice and the included Schedules containing details of the lessees, the leases and membership of the RTM Company.
4. The Applicant also sought the costs incurred by bringing this application, which had been necessitated by the Respondent's refusal to acknowledge the validity of the Notice of Claim without specifying the grounds on which it relied.

## **The hearing**

5. At the hearing of the application the Applicant was represented by Mr. Wiles of Prime Property Limited, who repeated the submissions presented in the Applicant's statements. The Respondent did not attend having notified the tribunal that "it was not cost effective to do so" but relied on a Statement in Reply dated 3<sup>rd</sup> January 2019, which stated "*The Applicant did not set out a full statement of grounds upon which it claimed that the Premises are premises to which Chapter 1*

*applies, as is required under section 80(2) and set out in Section 72(1) of the Act.”*

### **The tribunal’s decision and reasons**

6. The tribunal had regard to the provisions of section 80 of the 2002 Act which states:

*(1)The claim notice must comply with the following requirements.*

*(2)It must specify the premises and contain a statement of the grounds on which it is claimed that they are premises to which this Chapter applies.*

*(3)It must state the full name of each person who is both—*

*(a)the qualifying tenant of a flat contained in the premises, and*

*(b)a member of the RTM company,*

*and the address of his flat.*

*(4)And it must contain, in relation to each such person, such particulars of his lease as are sufficient to identify it, including—*

*(a)the date on which it was entered into,*

*(b)the term for which it was granted, and*

*(c)the date of the commencement of the term.*

*(5)It must state the name and registered office of the RTM company.*

*(6)It must specify a date, not earlier than one month after the relevant date, by which each person who was given the notice under section 79(6) may respond to it by giving a counter-notice under section 84.*

*(7)It must specify a date, at least three months after that specified under subsection (6), on which the RTM company intends to acquire the right to manage the premises.*

*(8)It must also contain such other particulars (if any) as may be required to be contained in claim notices by regulations made by the appropriate national authority.*

*(9)And it must comply with such requirements (if any) about the form of claim notices as may be prescribed by regulations so made.*

7. The tribunal determines that the Claim Notice satisfies all of the statutory requirements including a full statement of grounds upon which it claimed that the Premises are premises to which Chapter 1 applies, as is required under section 80(2) and set out in Section 72(1) of the Act. The tribunal therefore determines the Claim Notice is a valid notice entitling the Applicant to acquire the right to manage the subject property.

**Costs**

8. Rule 13 of the 2013 Rules provides:

*(1) The Tribunal may make an order in respect of costs only—*

*(a) under section 29(4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs;*

*(b) if a person has acted unreasonably in bringing, defending or conducting proceedings in—*

*(i).....*

*(ii) a residential property case, or*

*(iii).....*

8. In the absence of any specified arguable grounds on which to challenge the Applicant's Claim Notice, the tribunal determines that the Respondent has acted unreasonably in persisting with its opposition to the Applicant's claim. The tribunal accepts the costs incurred as set out in a schedule provided by the Applicant. The tribunal finds that the costs of £1515 (including VAT) are reasonable and therefore determines that his amount should be paid to the Applicant by the Respondent.

**Signed: Judge Tagliavini**

**Dated: 22 February 2019**

