



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

**Case reference** : **LON/00AK/LAM/2021/0027**

**HMCTS code  
(paper, video,  
audio)** : **V: CVPREMOTE**

**Property** : **44 – 55 St Pauls Rise, London N13 6LB**

**Applicant** : **Ms Marta Vacsi**

**Representative** : **In person**

**Respondent** : **Greentrees No. 1 Residents Company  
Limited (1)  
BJE London Limited (2)**

**Representative** : **Mr Jack Dillon - Counsel with  
Mr George Burgoyne of BJE London  
Limited**

**Type of application** : **Appointment of Manager**

**Tribunal  
member(s)** : **Judge Dutton  
Mr M Taylor MRICS**

**Venue** : **10 Alfred Place, London WC1E 7LR by  
video**

**Date of decision** : **29 March 2022**

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**DECISION**

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**Covid-19 pandemic: description of hearing**

This has been a remote video hearing which has been consented to by the parties. The form of remote hearing was V: CVPREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents that we were referred to are in bundles totalling some 600 odd pages, the contents of which we have noted.

## **Decision of the tribunal**

1. The tribunal dismisses the application for an appointment of a manager by Ms Vacsi for the reasons set out below
2. No order shall be made under section 20C Landlord and Tenant Act 1985 for the reasons set out below.
3. If the respondent seeks an order for costs under the provisions of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 13 then application must be made within 28 days of the date this decision is sent to the parties. Directions will then be issued. The Respondent is asked to ensure the provisions of the Upper Tribunal case of Willow Court Management Company (1985) Ltd v Mrs Ratna Alexander [2016] UKUT (LC) are fully considered.

## **Background**

1. On 16 September 2021 the Applicant Ms Marta Vacsi applied to the tribunal seeking the appointment of a manager under the provisions of s24 Landlord and Tenant Act 1987 (the Act). The application named BJE London Limited (BJE), the managing agent, as Respondent and recorded Greentrees No.1 Residents Company Limited (GRCL) as the Landlord. The application also disclosed that no notice under section 22 of the Act had been served and that dispensation was sought.
2. Directions were issued on 17 December 2021 providing for a hearing to take place on 29 March 2022.
3. On 17 January 2022 the tribunal through Judge Powell, wrote to Miss Vacsi setting out two “potentially significant problems” with the application. The first was the lack of the section 22 Notice under the Act and the basis upon which dispensation could be granted. The second was the wish to appoint herself as the manager and the need for her to consider the tribunal’s Practice Statement on this point. In fact, she did put forward a nominee.
4. Section 22 of the Act says this:

### ***22 Preliminary notice by tenant.***

*(1) Before an application for an order under section 24 is made in respect of any premises to which this Part applies by a tenant of a flat contained in those premises, a notice under this section must (subject to subsection (3)) be served by the tenant on—*

*(i) the landlord, and*

*(ii) any person (other than the landlord) by whom obligations relating to the management of the premises or any part of them are owed to the tenant under his tenancy.*

*(2) A notice under this section must—*

*(a) specify the tenant's name, the address of his flat and an address in England and Wales (which may be the address of his flat) at which any person on whom the notice is served may serve notices, including notices in proceedings, on him in connection with this Part;*

*(b) state that the tenant intends to make an application for an order under section 24 to be made by the appropriate tribunal in respect of such premises to which this Part applies as are specified in the notice, but (if paragraph (d) is applicable) that he will not do so if the requirement specified in pursuance of that paragraph is complied with.*

*(c) specify the grounds on which the tribunal would be asked to make such an order and the matters that would be relied on by the tenant for the purpose of establishing those grounds.*

*(d) where those matters are capable of being remedied by any person on whom the notice is served, require him, within such reasonable period as is specified in the notice, to take such steps for the purpose of remedying them as are so specified; and*

*(e) contain such information (if any) as the Secretary of State may by regulations prescribe.*

*(3) The appropriate tribunal may (whether on the hearing of an application for an order under section 24 or not) by order dispense with the requirement to serve a notice under this section on a person in a case where it is satisfied that it would not be reasonably practicable to serve such a notice on the person, but the tribunal may, when doing so, direct that such other notices are served, or such other steps are taken, as it thinks fit.*

*(4) In a case where—*

*(a) a notice under this section has been served on the landlord, and*

*(b) his interest in the premises specified in pursuance of subsection (2)(b) is subject to a mortgage, the landlord shall, as soon as is reasonably practicable after receiving the notice, serve on the mortgagee a copy of the notice.*

5. In Miss Vacsi's bundle of papers lodged for the hearing under the heading 'Reasons why Preliminary Notice was not served' she said that as she was a shareholder in GRCL she did not need to serve a Notice. She also went on to say that she had been trying to contact BJE for some time and was still awaiting a response to the queries she had raised. She also relied on email communications constituting notice under the Act.
6. At the hearing she repeated these submissions and stated that she had asked for details of the complaints procedure and called for an AGM, both of which had been ignored.
7. In response Mr Dillon for GRCL confirmed that they did not waive the requirement for a Notice to be served and doubted whether they could waive that requirement in any event. It was, he submitted, a black and white issue. He referred us to an extract from the Tanfield Chambers publication on Service Charges and Management and in particular chapter 21 dealing with the appointment of a manager which at paragraphs 21-25/26 onwards set out the

requirements of a Notice under s22 of the Act and at paragraph 21-38 the power of the tribunal to dispense with the requirement of a Notice. It sets out the grounds and makes the point that there is no 'just and equitable ground' only whether it 'would not be reasonably practicable to serve the Notice on the Landlord'.

8. It was said that Ms Vasci knew at all material times who the Landlord was and had indeed named GRCL in the application. It was the freeholder named in the extended lease, which was provided on the morning of the hearing, named in the demands for payment of service charges and registered at HM Land Registry. All information that Ms Vasci could easily have obtained. Further the emails did not constitute Notice and the fact that she was a shareholder was not a ground for avoiding the service of the Notice.

## **Findings**

9. It is clear to us that before Ms Vasci issued her application, she well knew the identity of the Landlord and indeed the managing agents and knew the address at which the Notice under s22 could and should have been served. We agree with Mr Dillon that there is no "just and equitable" ground for dispensing with service of the Notice. The only ground is as set out at section 22(3), namely whether it was reasonably practicable to serve. Clearly it was reasonably practicable to serve the Notice. The identity of the Landlord was known to Ms Vasci, as was the address of the company. There can be no reason not to serve the Notice on the Landlord. The service of the Notice is an important step in bringing clearly to its attention those issues that may be of concern and giving the Landlord the chance to correct any justifiable issues without the need for proceedings.
10. The emails go nowhere near constituting the required Notice. They refer to taking matters further and whilst accepting that there is no set format for the Notice they do not contain the requirements under s22 of the Act.
11. For these reasons we see no grounds for granting dispensation. As the issue of the Notice under s22, or its dispensation, is a prerequisite to issuing an application under s24 of the Act we must dismiss Ms Vasci's application.
12. In her application she had sought an order under s20C of the Landlord and Tenant Act 1985, Given our findings we make no such order. Mr Dillon indicated that there may be a claim for costs under rule 13. An application for same can be made in due course and will be addressed at that time. ( See above)

**Name:** Judge Dutton

**Date:** 29 March 2022

## **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

