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

Case Reference : **LON/00AU/LRM/2013/0030**

Property : **4 St Johns Villas London N19 3EG**

Applicant : **4 SJV RTM Company Limited**

Representative : **Collins Benson Goldhill LLP
Solicitors**

Respondent : **Assethold Limited**

Representative :

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

Tribunal Members : **Judge Pittaway
Mr D Jagger**

Date of Decision : **11 February 2014**

**Determination without an oral
hearing in accordance with
Regulation 31 The Tribunal
Procedure (First-tier Tribunal)
(Property Chamber) Rules 2013**

DECISION

Introduction

1. This is an application made by the Applicant under section 84 (3) of the Commonhold and Leasehold Reform Act 2002 (as amended) (“the Act”) of 11 December 2013 for a determination that on the relevant date the Applicant was entitled to acquire the right to manage.
2. By a claim notice dated 22nd October 2013 the Applicant gave notice that it intends to acquire the Right to Manage the Property on 4 March 2014.
3. By a counter notice dated 28th November 2013 the Respondent disputed the claim alleging that the Applicant was not entitled to acquire the right to manage the property because the claim notice did not comply with the requirements prescribed by the regulations in accordance with s 80(9) of the Act.
4. The Tribunal issued Directions on 13 December 2013.
5. Neither party requested an oral hearing.
6. The Tribunal have before it the Applicant’s Statement of Case and the Respondent’s Statement of Case.

The Respondent’s Case

1. The Respondent submitted that the Applicant did not acquire the right to manage because the claim notice was signed by a single individual whose signature was not witnessed, as required by s 44 Companies Act 2006.
2. The Respondent submitted that this meant that the claim notice did not comply with the prescribed form of notice exhibited in Schedule 2 to the Right to Manage (Prescribed Particulars and Forms) (England) Regulations 2010 (“the Regulations”)

The Applicant’s Case

3. The Applicant submitted that the Respondents had not shown that the Regulations require the claim notice to be executed by the Applicant company or in accordance with s 44 Companies Act 2006.
4. They submitted that the claim notice was signed by Simon Mathisen, who is both a member of the company and a director. Evidence from Companies House that he is a director and member of the Company was included in their Application to the Tribunal. They submitted that if he signed in his capacity as a member rather than a director there can be no requirement for him to sign in accordance with the Companies Act 2006.

5. The Applicants further referred the Tribunal to the decision of the Upper Tribunal (Lands Chamber) in *Pineview Limited v. 83 Crampton Street RTM Company Limited*, in particular the statement by Martin Rodger Q.C. that neither the Act nor the Regulations require the recipient to be informed that the signatory is an authorised member or officer; that the identity of the signatory is not one of the prescribed requirements of claim notices as referred to in section 80(9) of the Act.
6. The Applicant also seeks an award of costs to be paid by the Respondent under Rule 13(1) (b) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the “**2013 Rules**”), on the basis that the Respondent has acted unreasonably; because their case had no real prospect of success and the Respondent failed to particularise their case when asked, leading to the Applicant having to make the present Application.

Decision of the Tribunal

1. That the claim notice, signed by Mr Simon Mathisen was valid.
2. The Tribunal do not find that the Respondent acted unreasonably in relation to the defending or conducting the proceedings and therefore make no order in respect of costs against them.

Reasons for the Tribunal’s Decision

1. The Tribunal do not accept the Respondent’s submission that the claim notice had to be signed in accordance with s44 Companies Act 2006. This sets out the requirements for the execution of documents by a company. The Regulations only require that the claim notice to be “Signed by the authority of the company”.
2. Tribunal determine that Mr Mathesin signed the claim notice with the authority of the company, as an authorised member or officer. They note that the Respondent did not deny that Mr Mathesin had authority from the company to sign the notice, or that he was a director and member of the Applicant company; only that a sole signature was not sufficient.
3. For Rule 13 (1) (b) of the 2013 Rules to apply the Respondent would have had to have acted unreasonably in defending or conducting proceedings. (The Applicant has brought the proceedings so that element of the Rule is not relevant here.)

The Tribunal do not find that the Respondent has acted unreasonably in defending the proceedings nor has the Applicant provided any evidence that it so acted.

The Applicant’s request is based on the Respondent having asserted that the claim notice was incorrectly signed. Given that there have been previous decisions (including that in *Pineview Limited v. 83 Crampton*

Street RTM Company Limited to which the Applicant referred) in which the validity of a claim notice has been queried by reason of who signed it the Tribunal do not consider it unreasonable for the Respondent to have raised the issue, or to have defended the proceedings on that basis.

The Tribunal do not see that the Respondent has acted unreasonably in the proceedings themselves; their statement of case was lodged within the timeframe specified in the Directions of 13 December 2013.

The Law

1. Section 80(8) requires the contents of the claim notice to contain such other particulars (than those set out in the earlier subsections of the section) as may be required to be contained in claim notices by regulations made by the appropriate authority and section 80(9) of the Act requires any claim notice to comply with the requirements about the form of claim notices as may be prescribed.
2. Schedule 2 to the Right to Manage (Prescribed Particulars and Forms) (England) Regulations 2010 (“the Regulations”) provides for the claim notice to be “signed by authority of the company” followed by the words “[signature of authorised member or officer] [insert date]”
3. Under Rule 13 (1) (b) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 the Tribunal may make an order for costs only if a person has acted unreasonably in bringing, defending or conducting proceedings in a leasehold case.

Judge Pittaway