



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

Case Reference : **LON/00BB/LRM/2015/0029**

Property : **12 Johnstone Road, London E6 6JA**

Applicant : **Chobbs & Poor RTM Company Limited**

Representative : **None**

Respondent : **Mr Harjit Singh**

Representative : **None**

Type of Application : **Determination that entitlement to the right to manage has been acquired – section 84 Commonhold and Leasehold Reform Act 2002**

Tribunal Members : **Judge John Hewitt
Ms Sue Coughlin**

Date of Decision : **13 November 2015**

DECISION

Decisions of the tribunal

1. The tribunal determines that the applicant was on the relevant date entitled to acquire the right to manage the premises
2. The reasons for our decisions are set out below.

NB Later reference in this Decision to a number in square brackets ([]) is a reference to the page number of the hearing file provided to us for use at the hearing.

Procedural background

3. The premises at 12 Johnstone Road comprise two flats, both of which are let on long leases. The respondent is registered at Land Registry as the proprietor of the freehold interest of the premises [9].
4. By a claim notice dated 24 June 2015 given by the applicant pursuant to section 79 Commonhold and Leasehold Reform Act 2002 (the Act) the applicant gave notice that it intended to acquire the right to manage on 1 November 2015.
5. By a counter-notice dated 30 July 2015 the respondent alleged that by reason of section 79(5) of the Act the applicant was not entitled to acquire the right to manage the specified premises.
6. On 23 September 2015 the tribunal received an application from the applicant pursuant to section 84 of the Act.
7. Directions were given on 24 September 2015. The parties were notified of the intention to determine the application on the papers and without an oral hearing but that either party may ask for an oral hearing and that any request for an oral hearing should be made within 30 days of receipt of the directions. The parties were also notified that if an oral hearing was requested it would take place at 10:00 Wednesday 11 November 2015. The tribunal has not received a request for an oral hearing.
8. The respondent was directed to send to the applicant a statement in reply to the application by 9 October 2015. The applicant states that it has not received any such statement from the respondent.
9. On 5 November 2015 the tribunal received a supplementary statement from the applicant pursuant to the directions.

Findings of fact

10. The evidence from the applicant is that 12 Johnstone Road is a building containing two flats, both of which are let on long leases. There is support for that evidence because the office copy of the freehold title records in the charges register a schedule of two leases - being flats 12 a and 12b. Both leases were for terms of 99 years from 25 March 2007.

The statutory provisions

11. The material statutory provisions are:

Section 79

(1) – (3) ...

(4) If on the relevant date there are only two qualifying tenants of flats in the premises, both must be members of the RTM company.

(5) In any other case, the membership of the RTM company must on the relevant date include a number of qualifying tenants of flats contained in the premises which is not less than one-half of the total number of flats so contained.

Discussion

12. In his counter-notice the respondent has simply cited section 79(5) of the Act for his allegation that the applicant was not entitled to acquire the right to manage.
13. The respondent has not participated in these proceedings or served any statement in reply.
14. At no time has the respondent suggested or asserted that the premises contains more than two flats or that the two long lessees were not members of the RTM company.
15. We are satisfied on the evidence that the premises contains two flats and that when the claim notice was given both long lessees who are the qualifying tenants were both members of the RTM company.
16. In these circumstances we find that the applicant was, on the relevant date, entitled to acquire the right to manage the premises.
17. In consequence of this decision the applicant will acquire the right to manage on the date provided for in section 90(4) of the Act.

Judge John Hewitt
13 November 2015