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

Case reference : **LON/00AG/LBC/2015/0121**

Property : **Flat 8 Queen Court, Queen Square,
London WC1N 3BA**

Applicant : **Queen Court RTM Company
Limited**

Representative : **Mr Michael Corker**

Respondent : **Mr Elliot David Ronald**

Representative : **In person**

Type of application : **Determination of an alleged breach
of covenant (preliminary paper
determination)**

Tribunal Members : **Ms N Hawkes
Mr J F Barlow JP FRICS**

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

**Date of paper
determination** : **20th January 2016**

DECISION

Decisions of the Tribunal

- (1) The Tribunal does not make any direction joining Anston Investments Limited as a party to these proceedings.
- (2) The Tribunal finds that it has no jurisdiction to make a determination on this application.

The background

1. On 8th November 2015, the applicant submitted an application to the Tribunal pursuant to section 168(4) of the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act").
2. By a Statement of Case dated 10th December 2015, the respondent submitted that this is not a matter which the Tribunal has jurisdiction to determine on the applicant's application because the applicant is a right to manage company and a right to manage company cannot make an application under section 168(4) of the 2002 Act. The respondent requested that the issue of whether or not the Tribunal has jurisdiction be determined as a preliminary issue.
3. By letter dated 15th December 2015, the applicant requested that the respondent's immediate landlord, Anston Investments Limited, be added as a party to the proceedings pursuant to Rule 10 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 ("the Tribunal Procedure Rules").
4. On 17th December 2015, the Tribunal acceded to this request and gave directions to enable the Tribunal to determine (by way of a paper determination unless an oral hearing was requested) on 20th January 2016 whether it has jurisdiction. The Tribunal also stated that the contents of the applicant's letter of 15th December 2015 were noted and would be dealt with at the preliminary paper determination.
5. By letter dated 22nd December 2015, the applicant asked the Tribunal to stay the proceedings pursuant to rule 6(3)(m) of the Tribunal Procedure Rules for mediation. By decision dated 6th January 2016, the Tribunal refused this application.
6. By letter dated 8th January 2016 (received on 11th January 2013), the applicant applied for a postponement of the determination of the preliminary issue until the conclusion of settlement negotiations. The Tribunal was not persuaded by this renewed request for a postponement to alter its decision of 6th January 2016.

7. Neither party has requested an oral hearing. Accordingly, the Tribunal has made this determination on the papers.

The determination

8. The two issues currently before the Tribunal are (i) whether Anston Investments Limited should be joined as a party to the application; and (ii) whether the Tribunal has jurisdiction to determine this application.

Whether Anston Investments Limited should be joined as a party to the application

9. By letter dated 15th December 2015, the applicant informed the Tribunal that it would forward a letter (or equivalent) from Anston Investments Limited, the respondent's immediate landlord, agreeing to be joined as a party "shortly".
10. No such confirmation from Anston Investments Limited has been received and, accordingly, the Tribunal does not make any direction joining Anston Investments Limited as a party to these proceedings. The sole party to these proceedings is therefore, the applicant, Queen Court RTM Company Limited.

Whether the Tribunal has jurisdiction to determine this application

11. The respondent submits that the Tribunal has no jurisdiction to determine the applicant's application because the applicant is a right to manage company and a right to manage company cannot make an application under section 168(4) of the 2002 Act. The respondent argues that the wording of section 168(4) could not be clearer on this point.
12. Section 168(4) of the 2002 Act provides:

"A landlord under a long lease of a dwelling may make an application to the appropriate tribunal for a determination that a breach of covenant or condition in the lease has occurred."
13. The respondent submits and the Tribunal accepts that, as a matter of ordinary English, it is not possible to read the reference to "*a landlord under a long lease of a dwelling*" as referring to a right to manage company. The statutory provisions to which the applicant refers in its written submissions do not alter the fact that the natural and ordinary meaning of section 168(4) of the 2002 Act is clear.
14. Accordingly, the Tribunal finds that it has no jurisdiction to make a determination on this application.

15. Notwithstanding that no further matters have been listed for determination, the applicant at Paragraph 9 of its submissions dated 11th January 2016 asks the Tribunal to transfer this application to the County Court because the County Court has jurisdiction to grant injunctions. This application is an application pursuant to section 168(4) of the 2002 Act rather than an application for an injunction the Tribunal does not consider that it is appropriate for the application to be transferred to the County Court. The Tribunal will therefore close its file and will take no further action on this application.

Judge N Hawkes

Date 20th January 2016

ANNEX - RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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.
4. 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.