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

**Case reference** : LON/00AY/LOA/2018/0001

**Property** : 68 Natal Road, London SW16 6HZ

**Applicant** : 68 Natal Road RTM Company Limited

**Representative** : Urban Owners

**Respondent** : Moira Hanley

**Representative** :

**Type of application** : Right to manage

**Tribunal member(s)** : Judge O'Sullivan

**Date of decision** : 27 March 2018

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**DECISION**

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**Decisions of the Tribunal**

- (1) The Tribunal determines that the Applicant is entitled to acquire the right to manage the property.

**The application**

1. This was an application to acquire the right to manage 68 Natal Road, London SW16 6HZ ("the premises") under Part 2 of Chapter 1 of the Commonhold and Leasehold Reform Act 2002 ("the Act").

2. The application is made under section 85(2) of the Act on the grounds that the landlord is missing and/or absent.
3. By a letter dated 25 January 2018 the applicant confirmed that the requirements of sections 78 and 79 are fulfilled. It is also confirmed that there are only two qualifying tenants within the building, both of whom are members of the RTM company and on that basis no notice was served under section 85(3) of the Act.
4. The applicant has written to the freeholder on the address contained in the office copy entries of the freehold title but confirms that this correspondence has been returned marked "*addressee gone away*".
5. Under section 85(2) the applicant provided details of the steps it has taken to trace the landlord. It provided a copy of a report from a trace agent company which confirmed that it could find no address for her.

### **The law**

6. The relevant provisions of the Act are as follows;

#### *85 Landlords etc. not traceable*

*(1) This section applies where a RTM company wishing to acquire the right to manage premises—*

*(a) complies with subsection (4) or (5) of section 79, and*

*(b) would not have been precluded from giving a valid notice under that section with respect to the premises,*

*but cannot find, or ascertain the identity of, any of the persons to whom the claim notice would be required to be given by subsection (6) of that section.*

*(2) The RTM company may apply to the appropriate tribunal for an order that the company is to acquire the right to manage the premises.*

*(3) Such an order may be made only if the company has given notice of the application to each person who is the qualifying tenant of a flat contained in the premises.*

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*(4) Before an order is made the company may be required to take such further steps by way of advertisement or otherwise as is determined proper for the purpose of tracing the persons who are—*

*(a) landlords under leases of the whole or any part of the premises, or*

*(b) parties to such leases otherwise than as landlord or tenant.*

*(5) If any of those persons is traced—*

*(a) after an application for an order is made, but*

*(b) before the making of an order,*

*no further proceedings shall be taken with a view to the making of an order.*

*(6) Where that happens—*

*(a) the rights and obligations of all persons concerned shall be determined as if the company had, at the date of the application, duly given notice under section 79 of its claim to acquire the right to manage the premises, and*

*(b) the tribunal may give such directions as it thinks fit as to the steps to be taken for giving effect to their rights and obligations, including directions modifying or dispensing with any of the requirements imposed by or by virtue of this Chapter.*

*(7) An application for an order may be withdrawn at any time before an order is made and, after it is withdrawn, subsection (6)(a) does not apply.*

*(8) But where any step is taken for the purpose of giving effect to subsection (6)(a) in the case of any application, the application shall not afterwards be withdrawn except—*

*(a) with the consent of the person or persons traced, or*

*(b) by permission of the tribunal.*

*(9) And permission shall be given only where it appears just that it should be given by reason of matters coming to the knowledge of the RTM company in consequence of the tracing of the person or persons traced.*

## **Summary**

8. Overall, the Tribunal determines that the Applicant is entitled to acquire the right to manage the premises pursuant to section 85(2) of the Act.
9. Therefore, in accordance with section 90(4), within three months after this determination becomes final the Applicant will acquire the right to manage these premises. According to section 84(7):
  - “(7) A determination on an application under subsection (3) becomes final—
  - (a) if not appealed against, at the end of the period for bringing an appeal, or
  - (b) if appealed against, at the time when the appeal (or any further appeal) is disposed of.”

## **Costs**

10. Section 88(3) of the Act states:
  - “(3) A RTM company is liable for any costs which such a person incurs as party to any proceedings under this Chapter before a leasehold valuation tribunal only if the tribunal dismisses an application by the company for a determination that it is entitled to acquire the right to manage the premises.”
11. In the light of the Tribunal’s decision, there is no question of awarding any costs of the proceedings to the Respondent because the application for the right to acquire has not been dismissed.
12. The applicant must serve a copy of this decision on any mortgagor listed on the freehold title.

**Name:** Judge O’Sullivan

**Date:** 27 March 2018

## **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).