



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

Case reference : **LON/00BK/LVM/2020/0008**

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

Property : **77 Abbey Road, London NW8 0AE**

Applicants : **Rekha Ghosh (leaseholder of Flat A)
Neil Hutchinson (leaseholder of Flat B),
Robert Chard (leaseholder of Flat D)**

Representative : **In person**

Respondent : **Irfan Sadeeq**

Representative : **In person**

Present at hearing : **Robert Chard, Irfan Sadeeq, Olu Sholaja
(Mr Hutchinson's PA), Matthew
Stylianou (the existing manager) and
Iain Goalen (Ms Ghosh's son-in-law)**

Type of application : **Extension of order for appointment of a
manager**

Tribunal members : **Judge P Korn
Mr M Cairns MCIEH**

Date of hearing : **7th December 2020**

Date of decision : **4th January 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote video hearing which has been consented to by the Applicants and not objected to by the Respondent. The form of remote hearing was V: FVHREMOTE. A face-to-face hearing was not held because it was not practicable and no-one requested the same, and all issues could be determined in a remote hearing. The documents that we were referred to were in a series of electronic document bundles, the contents of which we have noted. The order made is described at the end of these reasons.

Background

1. At the date of the application Matthew Stylianou of Westways Estate Agents Limited was the manager of the Property pursuant to a management order dated 10th October 2018. That appointment expired on 9th October 2020.
2. By an order dated 14th September 2020 the First-tier Tribunal (FTT) made an interim order extending the term of Mr Stylianou's appointment until the final determination of the present application in order to avoid disruption to the management of the Property.
3. The Applicants are the leaseholders of 3 out of the 4 flats at the Property and they seek an extension of the original order by a further 5 years pursuant to section 24(9) of the Landlord and Tenant Act 1987 ("**the 1987 Act**").

Applicants' case

4. The Applicants state that, following years of bad management, the tenants of the Property took the Landlord to the FTT for a determination of liability to pay certain service charges for the years 2010 to 2018. The FTT in that case noted the complaint that Mr Sadeeq was very aggressive and caused significant stress to the residents of the building, that he constantly harassed the residents and was both threatening and aggressive, that he neglected all duties that he had as a landlord and that he continued to make everyone's life miserable while the state of the building deteriorated. The FTT went on to state that, based on what it had seen and heard, it considered these comments to be well-founded. In relation to one particular charge, the FTT said that it was clearly extortionate and without justification.
5. Following the decision of the FTT in that service charge case the tenants/leaseholders hoped that Mr Sadeeq's engagement with them would improve, but it did not. They therefore applied to the FTT for the appointment of Mr Stylianou as manager of the Property and, as noted above, Mr Stylianou was appointed in October 2018.
6. The Applicants state that since Mr Stylianou's appointment the building has been run 'brilliantly'. The service charges are fair and the tenants are happy.
7. In support of the application, Mr Stylianou confirms that he considers the building to be running smoothly and efficiently and that he would be happy to continue as the manager for a further 5 years. He states that his team has

established a positive and communicative relationship with both the leaseholders and the Respondent. Upcoming works include the installation of a Grade A fire alarm system with heat detectors in individual flats as well as emergency lighting. No other major works are planned at present. He has provided a spreadsheet detailing the most recent service charges and up-to-date details of his professional indemnity cover.

8. Mr Stylianou proposes a slight increase in his fee to £350 + VAT per annum per flat to account for rising operational costs, and the Applicants are content with this increase.

Respondent's case

9. The Respondent has chosen not to make any written submissions, at least not to do so in accordance with the tribunal's directions. In email correspondence with the tribunal case officer he has repeatedly claimed not to have received the application and directions, but we are satisfied that the case officer has sent these by email more than once to the Respondent and has sent them to the same email address from which the Respondent has claimed non-receipt of documents.
10. Instead of making proper submissions on the issues relevant to the case in accordance with the tribunal's directions, the Respondent has instead chosen to make brief and very late comments on certain issues. These comments in the main either misconstrue or are irrelevant to the present application. Those few comments which are at least potentially relevant to the application are wholly unsubstantiated. It is noted that the Respondent does not present himself as a lay person, describing himself in correspondence as a barrister.

Discussion at the hearing

11. At the hearing, Mr Chard reiterated that the leaseholders had endured several years of bad management and inflated service charges and that the previous FTT decisions had validated the leaseholders' concerns. He confirmed that he was very happy with Mr Stylianou's performance as manager to date.
12. Ms Sholaja said that Mr Hutchinson (leaseholder of Flat B) was also very happy with Mr Stylianou's performance and that his management style contrasted markedly with that of the Respondent who had been abusive and generally very bad at management. Mr Hutchinson had copies of abusive emails sent by the Respondent.
13. The tribunal asked Mr Stylianou various questions about the ongoing management, which he answered. He said that Flat C had a small amount of service charge arrears and the Respondent had not contributed towards the cost of external repairs but that otherwise it was all working well. In the course of the discussion Mr Stylianou added a clarification to his written submissions by saying that when he first became manager the Respondent seemed happy with his role as manager but that recently he and his staff had received abusive emails and telephone calls from the Respondent.

14. As regards the length of extension of the order, Mr Stylianou said that he would be happy if it was only (say) 3 years rather than 5 years, but Mr Chard said that he wanted it to be 5 years so as to ensure that things work as smoothly as possible for as long as possible. Towards the end of the hearing Mr Chard asked whether it would be possible for the extension of the appointment to be unlimited.
15. The Respondent said that he had employed a managing agent until 2011. The managing agent had then left and the Respondent had managed the Property personally until 2018. He said that since Mr Stylianou had become the manager he had made his own decisions as to what was payable by whom and had not provided the Respondent with a logical explanation. The Respondent has had to pay for things out of his own pocket. As regards the previous FTT decision on the payability of service charges, he said that the FTT on that occasion had been a 'lay' tribunal and they had got the law wrong. In his view, that tribunal had not realised that there is a minimum threshold of £100 or £250 for service charge disputes.
16. The Respondent said that Mr Stylianou had made no contact with him and had refused his request for an inspection. No fire alarm had been installed and Mr Stylianou had refused to allow the Respondent to instal one at his own cost. Also, the Respondent said that he had inspected the Property at the weekend and had found that no maintenance works had been done on the electrics. He added that the leases were clear as to the percentage of maintenance costs payable but that the Applicants between them did not pay the full amount. He opposed the extension of the management order, in part on the basis that the Respondent controls more than 25% of the relevant area.
17. In response, Mr Stylianou said that the Respondent had misunderstood the different schedules of expenditure in the leases. He added that he had carried out all repairs identified as needing to be dealt with. Regarding the external works, the Respondent needed to contribute towards their cost but seemed unwilling to do so.
18. Mr Chard added, in response to the Respondent's comments, that in his view there was no problem with the fire alarm or the electrics or the state of repair of the building. The only problem was external decorations, for which a financial contribution from the Respondent was awaited. Ms Sholaja said that her experience of the Respondent was that he was very unprofessional and had not, whilst he was managing the Property, sourced any support from property professionals. Mr Goalen agreed with Mr Chard's and Ms Sholaja's comments, and he added that the Respondent's previous managing agent (who ceased to be involved in 2011) had been shockingly bad.

Analysis of the tribunal

19. Under section 24(9) of the 1987 Act "*The appropriate tribunal may, on the application of any person interested, vary or discharge (whether conditionally or unconditionally) an order made under this section ...*". The phrase "*an order made under this section*" in this context means an order to appoint a manager.

20. Under section 24(9A) *“The tribunal shall not vary or discharge an order under subsection (9) on the application of any relevant person unless it is satisfied – (a) that the variation or discharge of the order will not result in a recurrence of the circumstances which led to the order being made, and (b) that it is just and convenient in all the circumstances of the case to vary or discharge the order.*
21. We therefore have the power to vary the existing order, including the power to extend it.
22. Having considered the evidence we are satisfied that it is right in principle to extend the current order. The original order was granted due to the Respondent’s extremely poor standard of management, unreasonable service charge demands and abusive style of management. Since Mr Stylianou took over the management, the Applicants have all been extremely happy with the state of the building, with the level of service charge demands and with the management style. The only leaseholder not involved in these proceedings is the leaseholder of Flat C, who according to Mr Chard is away a lot and is consequently less involved with the Property. In any event, we have not received any objections from the leaseholder of Flat C to the application.
23. The Respondent has had plenty of opportunity to provide a coherent response to the application but he has failed to do so. The brief email comments that he has offered have been made well outside the time limit set in the tribunal’s directions. In the main these comments either misconstrue or are irrelevant to the present application. Those few comments which are at least potentially relevant to the application are wholly unsubstantiated.
24. At the hearing the Respondent seemed at best confused when offering his legal opinion. He stated that the management order could not be extended because the Respondent controls more than 25% of the relevant area, and we can only assume that the Respondent does not understand the difference between (a) an application for the extension of the appointment of a manager and (b) an application relating to a ‘right to manage’. He claimed that the FTT service charge decision was made by a completely ‘lay’ tribunal and yet it was chaired by Judge Hansen. He also claimed that the FTT does not have jurisdiction over service charge disputes relating to sums which are less than either £100 or £250 in amount, but presumably he was confusing this point with the limit on recovery of service charges relating to qualifying works and qualifying long term agreements in circumstances where the landlord has failed to go through the statutory consultation procedure and has not been given dispensation.
25. The Respondent came across very badly at the hearing, and we have no confidence that he is willing to, or even capable of, managing the Property properly. His comments on factual issues were neither credible nor substantiated, and his comments on legal issues were misinformed.
26. We consider that it is in the best interests of the leaseholders and indeed the Respondent that Mr Stylianou continues to manage the Property and that he does so pursuant to an extended management order so that he continues to have the necessary powers to take management decisions and is not as vulnerable to

unwarranted and/or harmful interference from the Respondent as he would be if he were merely a managing agent. We do not consider that an extension of the management order will result in a recurrence of the circumstances which led to the order being made. On the contrary, we consider that it will make a recurrence far less likely, and we are satisfied that it is just and convenient in all the circumstances of the case to extend the order.

27. As regards Mr Stylianou's fee, operational costs increase from time to time due to inflationary pressures and we consider the proposed increase – with which the Applicants are all content – to be acceptable.
28. As regards the length of the extension, whilst in theory it is possible to make an unlimited order it is very rare to do so. In addition, as explained at the hearing, Mr Chard did only make the request for an unlimited term at the end of the hearing. We make no criticism of Mr Chard for having done so, but we consider that it would be unfair on the Respondent to order an unlimited term without first giving him an opportunity to take legal advice from someone with expertise in this area of law.
29. As regards the original request for an extension of a further 5 years, this is quite a long period of time but on the facts of this case we consider it to be justified. The first 2 years have worked better than probably anyone could have imagined, whilst the Respondent seems to have learnt nothing and seems to be temperamentally deeply unsuited to property management. In the light of what the leaseholders have had to go through, we consider it appropriate to allow them a substantial period of time during which the building can be managed by someone with the requisite experience, skills and temperament for the benefit of all.
30. If at a later stage there is a very significant change in circumstances it will be open to any interested person to apply for a discharge or a further variation of the order. The Respondent should, though, note that a spurious or vexatious application for discharge could attract a cost penalty.
31. No other variations to the wording of the management order have been proposed and we do not consider that any other variations are necessary.

Costs

32. There were no cost applications.

Decision of the tribunal

33. Accordingly, the existing management order is extended by a further 5 years from the date of this decision (4th January 2021). The terms of the order remain the same, save that the manager's fee is increased to £350 + VAT per flat.

Name: Judge P Korn

Date: 4th January 2021

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).