

404.



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

**Case Reference** : LON/00BB/LRM/2013/0024

**Property** : 15-41 Northumberland Road,  
London E6 5RN

**Applicant** : Northumberland Road RTM  
Company Ltd.

**Representative** : None

**Respondent** : OM Ltd.

**Representative** : Estates and Management Ltd.

**Interested Person** : London Borough of Newham

**Type of Application** : For the determination of the (no  
fault) right to manage

**Tribunal Members** : Judge F Dickie  
Mr A Manson, FRICS

**Date of Decision** : 9 December 2013

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**DECISION**

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**Decision of the tribunal**

The application is dismissed. The tribunal determines that the Applicant was not entitled to acquire the right to manage.

## The application

1. An application is made under section 84(3) of the Commonhold and Leasehold Reform Act 2002 (“the Act”) for a determination that on the relevant date the Right to Manage Company was entitled to acquire the Right to Manage.
2. So far as is relevant, Section 79 of the Act provides:
  - (1) .... The “relevant date” in relation to any claim to acquire the right to manage, means the date on which notice of the claim is given.
  - (6) The claim notice must be given to each person who on the relevant date is –
    - (a) landlord under a lease of the whole or any part of the premises
    - (b) party to such a lease otherwise than as landlord or tenant, ...
3. Section 80 sets out the requirements for the contents of the claim notice, which include:
  - (6) It must specify a date, not earlier than one month after the relevant date, by which each person who was given the notice under section 79(6) may respond to it by giving a counter-notice under section 84.
4. The Respondent is the named manager in the leases. The freeholder, London Borough of Newham, does not object to the Right to Manage claim.
5. A Notice of Claim was sent by the Applicant to OM Property Management, Marlborough House, Wigmore Place, Wigmore Lane, Luton, Beds LU2 9EX dated 6 August 2013. The Notice required the service of any counter notice by 9 September 2013.
6. The Respondent observes that the claim notice was not served on the registered office of OM Ltd., which is Molteno House, 302 Regents Park Road, London N3 2JX. The Respondent states that the claim notice was forwarded to the Respondent at its registered address by Peverel Property Management on 14 August 2013.
7. On 19 August 2013 the Respondent wrote to the Applicant to explain the error with regard to service of the claim notice, and requested further documents relating to the Right to Manage. No response was apparently received from the Applicant and a counter

notice was served by the Respondent on 28 August 2013 to protect its position.

8. There has been no response from the Applicant to the Respondent's submissions on the question of service of the claim notice.
9. The Respondent is not satisfied on the documentation presently available to it that the building qualifies for the Right to Manage, that the correct procedure has been followed, that sufficient membership of the RTM company has been obtained, or that the Applicant is entitled to acquire the Right to Manage, and none of these issues have been addressed in the application or evidence.
10. This application is dismissed for failure to comply with Section 80(6) of the Act. According to *Plintal SA (1) Palvetto Properties (2) v 36-48A Edgewood Drive RTM Co Ltd and Other* (LRX/16/2007), notice of the claim must simply be "given", and there is no requirement that it must be given in a manner that would constitute service for the purposes of the Civil Procedure Rules. In that case, as in the present, the Respondent had clearly received the claim notice; and thus the notice had been given to them. However, the claim notice was not in the first instance sent to the Respondent, and the tribunal is satisfied that such notice was not given until 14 August 2013. Pursuant to section 79(1), this is therefore the relevant date.
11. Accordingly, in giving a date of 9 September 2013 by which a counter notice under section 84 must be served, the claim notice did not comply with section 80(6) in that the date specified was less than a month from the relevant date, being 14 August 2013.
12. As decided by the Upper Tribunal in *Moskovitz v 75 Worple Road RTM Company Ltd*. LRX/147/2009, the saving provision in section 81(1) does not apply to the requirement in section 80(6).
13. Accordingly, the application is dismissed.

F Dickie

Date            9 December 2013