



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

Case Reference : CHI/45UH/LVM/2015/0009

Property : 5 Bedford Row, Worthing,
East Sussex BN11 3DR

Applicant : Simon Robinson

Representative : Alex Morakinyo

Respondents : Christopher Halls & Robert Boswell

Representative : -

Type of Application : Application to discharge a manager
appointed by the Tribunal

Tribunal Members : Judge RTA Wilson
Roger Wilkey FRICS

**Date of inspection
and determination** : 17th March 2016

Date of decision : 21st March 2016

DECISION

The Application

1. By an application dated 1st December 2015 the Applicant freeholder sought a determination that the existing management order dated the 21st May 2004 appointing Mr C.J.Halls Tribunal manager be discharged.

Summary of Decision

2. That the application for Mr C.J. Halls to be discharged as Tribunal appointed manager and receiver for the Property be and is dismissed.

The Inspection

3. The tribunal inspected the Property on the morning of the hearing. Mr Halls and Mr Boswell were in attendance and provided the tribunal with access to the internal common parts. The Applicant was not present and was not represented.
4. The Property is a mid terrace listed building close to the sea front in Worthing. It has been converted into five self-contained flats. Externally the Property is only in fair condition, and there is staining and cracking of some areas of render. The wooden door and the windows, which are all single-glazed, are in need of maintenance. The internal common parts appear shabby with worn fitted stair carpets. Maintenance and redecoration are overdue.

Procedural Matters

5. The tribunal issued directions on the 3rd February 2016 providing for a hearing of the application. The directions required all parties to file their statement of case with supporting evidence and each party had an opportunity of reply. The Applicant was responsible for preparing a hearing bundle and sending it to the parties and the tribunal and the application was set down for hearing on the 17th March 2016.
6. In the event neither the Applicant nor his representative attended the hearing and the determination has been made on the basis of the parties written statements of case and supporting documentation, the tribunal's inspection and the submissions made by Mr Halls and Mr Boswell on the day of the hearing.
7. At the hearing it emerged that the hearing bundle prepared by the Applicant had failed to include Robert Boswell's witness statement dated 22nd February 2016 even though at the hearing Mr Boswell told the tribunal that he had emailed his witness statement to all parties on or about the 23rd February 2016. He also confirmed that he had sent a hard copy of this statement to the Applicant's UK address. Mr Halls

confirmed at the hearing that he had received the statement and no matters arose for him out of the statement upon which he wished to comment.

Evidence

8. Mr Halls witness statement was included in the hearing bundle and at the hearing he confirmed the contents. He told the tribunal that the Property had always been difficult to manage. It had been in a poor state of repair for many years and there were historic arrears of service charge, which prevented routine maintenance from being carried out. There had also been two instances of emergency repair work in recent years, which had utilised the service charge funds which had been collected for routine maintenance. There were still outstanding arrears and in his opinion the Property continued to present management challenges. Over the years there had been doubt over the identity of the freehold proprietor of the Property and inaccurate and misleading information had been given to him in this respect.
9. Upon being questioned by the tribunal he confirmed that he was prepared to continue managing the Property but would be happy to stand down if another manager acceptable to all parties could be found.
10. Mr Boswell opposed the application. He told the tribunal that Mr Hall's original appointment as manager had been made to protect the lessees from the effects of a partnership dispute, which involved the Applicant. This dispute had intensified of late and one of the disputed assets was the freehold of the Property.
11. He claimed that the Applicant no longer lived full time in the UK and was frequently in Thailand. The Applicant had recently revoked a power of attorney that he had granted to his sister and Mr Boswell considered that if the application was granted then the Applicant would seek to self manage the Property with disastrous results.

Discussion

12. The Applicant alleges that Mr Halls has failed to manage the Property effectively and has made no effort to collect outstanding service charges from leaseholders. Allegations are also made in relation to the building insurance and an alleged failure to properly account for monies received. There are also allegations that Mr Halls will not communicate with the Applicant.
13. As neither the Applicant nor his representative attended the hearing, the tribunal was not able to test these allegations all of which were denied by Mr Halls. Furthermore the Applicant's statement of case contained no reliable evidence which supported the allegations made.

14. In these circumstances the Applicant's case amounts to no more than a series of unsupported assertions and the tribunal can give little weight to the witness statement of Ms Morakinyo as she was not at the hearing to be cross examined.
15. By contrast, Mr Halls attended the inspection and hearing and made every attempt to assist the tribunal. The tribunal found Mr Halls to be professional, straightforward, and non partisan and clearly aware of his duties to manage the Property to the best of his ability and in the best interests of all leaseholders.
16. The tribunal accepts his evidence that the Property continues to present management challenges and in these circumstances the tribunal concludes that it is not just or convenient for the management order to be discharged.
17. In summary, the tribunal heard no evidence on which it could be satisfied that the discharge would not result in a recurrence of the circumstances which led to the appointment of a manager in the first place as required by Section 24 (A) of the Landlord and Tenant Act 1987. The application is therefore dismissed.

Dated: 21st March 2016

Judge RTA Wilson (Chairman)

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.