



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

Case Reference : **CAM/00KC/HYI/2021/0003**

Property : **81 Corbet Ride, Leighton Buzzard,
Bedfordshire LU7 2SJ**

Applicant : **Nigel John Ashton**

Respondent : **Central Bedfordshire Council**
Representative : **Pathfinder Legal Services Limited**

Interested Party : **Sally Ann Chappell**

Type of Application : **Review or Permission to Appeal
Decision**

Tribunal : **Judge JR Morris**
Mr C Gowman BSc MCIEH MCMi

Date of Decision : **27th September 2021 (issued 3rd October)**
Date of Application : **26th October 2021**
Date of Decision : **5th November 2021**

DECISION

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Decision of the Tribunal

1. The Tribunal has decided not to review its Decision and refuses permission to appeal to the Upper Tribunal because it is of the opinion that there is no realistic prospect of a successful appeal against its Decision in respect of the Grounds of the Application.
2. In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and Rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the applicant or respondent may make further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier

Tribunal sent notice of this refusal to the party applying for permission to appeal. Where possible, you should send your application for permission to appeal **by email** to Lands@justice.gov.uk, as this will enable the Upper Tribunal (Lands Chamber) to deal with it more efficiently.

3. Alternatively, the Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710).

Reason for the Decision

4. The reason for the decision is that the Tribunal had considered and taken into account all of the points now raised by the Applicant, when reaching its original decision and the additional submissions made by the Applicant do not affect the Tribunal's original decision.
5. The original Tribunal's decision was based on the evidence before it and the Applicant has adduced no new evidence nor have any legal arguments been raised in support of the Application for Permission to Appeal the original decision
6. For the benefit of the parties and of the Upper Tribunal (Lands Chamber) (assuming that further application for permission to appeal is made), the Tribunal has set out its comments on the specific points raised by the applicant in the application for Permission to Appeal, in the appendix attached.

Judge J R Morris
4th November 2021

APPENDIX TO THE DECISION
REFUSING PERMISSION TO APPEAL

For the benefit of the parties and of the Upper Tribunal (Lands Chamber), the Tribunal records below its comments on the grounds of appeal, adopting the paragraph numbering of the original application for permission. References in square brackets are to those paragraphs in the main body of the original Tribunal decision.

Original Application and Decision

1. On 16th April 2021 the Respondent to this Application applied for authorisation for an interim Empty Dwelling Management Order in respect of the Property (the “Original Application”).
2. The Tribunal authorised the Applicant to the Original Application to make an interim Empty Dwelling Management Order and stated that it was to be addressed to:
 - 1) Nigel John Ashton as the relevant proprietor at such address as he has given for communications; and
 - 2) Sally Ann Chappell as the relevant person at 1 Pankhurst Place, Broklesbury Close, Watford WD24 4GP

Application for Review of Permission to Appeal

3. The Tribunal received an email on 26th October 2021 in which Nigel John Ashton, a Respondent to the Original Application stated that he was not objecting to or seeking to appeal the decision of the Tribunal insofar as it relates to its decision to authorise the Applicant to make an interim Empty Dwelling Management Order. However, he stated that he believed that his being named as a respondent is based on errors of law and fact in relation to the administration of the estate of Elsie Evelyn Davisson and that as result, he believed he was not empowered or authorised to make the application to the Land Registry which he understood the Tribunal had instructed him to do by [57] of the Decision.
4. The Tribunal treated the email as an application to review or for permission to appeal the Decision, on the ground that the Applicant should not be a Respondent to the proceedings.

Grounds for Review or Permission to Appeal

5. The Applicant appeared to submit that he was not the correct Respondent as he is not the “relevant proprietor” as identified in the Decision.
6. The Reasons given are that:
 - a) The Property is still in the name of Evelyn Elsie Davisson who died on 1st March 2003. She left the Property to Pamela Jean Davisson and

Sally Ann Chappell. The Respondent's legal advice identified Pamela Jean Davisson as Evelyn Elsie Davisson's executor. Pamela Jean Davisson (subsequently Pamela Jean George) died 31st May 2014 and the Applicant was appointed her executor. The Respondent's legal advisers submitted that by a chain of representation the Applicant is the executor of Evelyn Elsie Davisson estate [36(4), 36(9) & 36(11)].

- b) The Applicant states that the executor, Paul Stroud Cox, appointed in Evelyn Elsie Davisson's will must have either died or renounced Probate it is not known which of these applied, and therefore Pamela Jean George took out a Grant of Letters of Administration with will annexed as one of the residuary legatees and devisees. Pamela Jean George was not Evelyn Elsie Davisson's executor but her administrator and therefore there is no chain of representation which only goes from executor to executor.
- c) The Applicant submits that the share of the Property to which Pamela Jean Davisson also referred to as Pamela Jean George is entitled to is vested in the Applicant as her executor and which he holds as a bare trustee for Sally Ann Chappell.
- d) Therefore, he is not entitled to the freehold estate in the dwelling and so is not the "relevant proprietor".
- e) The Applicant also states that as result, he believed he was not empowered or authorised to make the application to the Land Registry which he understood the Tribunal had instructed him to do by [57] of the Decision.

Decision

- 7. The Applicant, as a Respondent of the Original Application did not submit representations or attend the hearing. The above submissions were made in respect of the current Application.
- 8. On reading the Applicant's submissions and referring to the evidence previously adduced, the Tribunal finds that:
 - a) The Applicant is not Evelyn Elsie Davisson's executor by reason of a chain of representation. This is because, although he is the executor of Pamela Jean George, she was the administrator and not the executor of Evelyn Elsie Davisson's estate. The chain of representation only passes from executor to executor and not from an administrator to an executor. This is contrary to the Tribunal's finding at [55].
 - b) The Applicant is a trustee of the share of the Property to which Pamela Jean Davisson, also referred to as Pamela Jean George, is entitled, which is vested in the Applicant as her executor and which he holds as a bare trustee for Sally Ann Chappell. The Applicant is therefore at least a "third party" under the Act if not a "relevant proprietor". This is in accordance with the Tribunal's finding at [54].

9. As such, it is clear that both the Applicant and Sally Ann Chappell have an interest in the Property and are both “third parties” under section 134(4)(d) of the Housing Act 2004 and “relevant persons” under Part 1 of Schedule 6 and upon whom copies of notices relating to the making of the Empty Dwelling Management Order must be served. This also is in accordance with the Tribunal’s findings at [63] to [66] and [70].
10. Under section 132(4)(c)(ii) of the Housing Act 2004, the “relevant proprietor” is “the person who has the freehold estate in the dwelling” not the person who is registered with the freehold estate. Therefore, in the absence of contrary argument the Tribunal considers it was correct to find the Applicant is the “relevant proprietor”. Even if it is wrong in this, the Applicant has an interest and so is a “third party” and “relevant person”.
11. Therefore, the Applicant and Sally Ann Chappell having both been served with the requisite notices as “relevant persons”, the Tribunal finds that it was correct to make both Respondents to the original Application so that they could take a full part in the proceedings, if they chose to do so, in order to protect their respective interests.
12. In the course of considering whether or not to authorise the making of an interim Empty Dwelling Management Order, in accordance with section 134(3) of the Housing Act 2004, it must take into account the effect the order may have on the rights of the “relevant proprietor” or “third parties. In so doing it referred to actions, that, based on the evidence adduced and submissions made, it considered the “relevant proprietor” and “third parties” could take to protect their interests [56] to [62]. This included registration of any interest the Applicant may have at HM Land Registry. However, it is not within its jurisdiction to instruct or otherwise require him to do so and if it appeared to make such requirement it was not intended.