

RESIDENTIAL PROPERTY TRIBUNAL SERVICE
SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL

S.24 Landlord & Tenant Act 1987 (The Act) &
S20C Landlord & Tenant Act 1985



DECISION & ORDER

Case Number: CHI/00ML/LAM/2008/0001

Property: 18 Upper Market Street,
Hove
East Sussex BN3 1AS

Applicants: Mr Bruce Andrew Campbell
Mr Philip Lewis Hawkins
Mr Matt Tyson

Respondent: Mr Yiannis Stylianou

Application: 5th February 2008

Appearances: For the Applicants:
Mr John Searby
Messrs Arscotts Solicitors

For the Respondent:
The respondent did not attend and was not represented

Date of the Decision: 16th June 2008

Tribunal Members: Mr RTA Wilson LLB Solicitor (Chairman)
Mr R Wilkey FRICS Valuer Member
Mr T Sennett Lay Member

SUMMARY OF DECISION

1. An order is made under S.24 of the Act appointing Mr R J Austin of Messrs Austin Rees as manager and receiver of the Property for a period of two years from the 6th June 2008 upon the terms set out in the schedule hereto.
2. An order is made under S.20C of the Landlord and Tenant Act 1985

APPLICATION

3. This was an application made by Bruce Andrew Campbell, Philip Lewis Hawkins and Matt Tyson on the 5th February 2008 under S24 of the Act for the appointment of a manager and receiver of the Property.
4. The Property comprises five self contained residential flats all of which are let out on long leases.

THE HEARING

5. A hearing was held at the Hove Town Hall on the 2nd June 2008.
6. The Applicants were represented by Mr John Searby of Messrs Arscotts Solicitors. Mr Searby explained to the Tribunal that the parties had reached agreement to an Order appointing Mr R J Austin of Messrs Austin Rees as manager and receiver of the property.
7. Mr Searby explained that the terms of the draft order had been agreed between the parties and he handed to the Tribunal a draft of the order that had been signed by the Respondent endorsing his consent. The draft order had also been endorsed with the consent of Mr Matt Tyson the third applicant.
8. Mr Searby confirmed that the Respondent had been advised on the terms of the draft order by his solicitors Messrs Bernard Brazier and Tisdell. Mr Searby handed to the Tribunal a letter from Messrs Bernard Brazier and Tisdell in which they had returned the draft order to Mr Searby duly approved and signed on behalf of their client by way of consent
9. Mr Searby further confirmed that the terms of the draft order had been fully discussed with Messrs Austin Rees who confirmed that they were prepared to accept the appointment on the terms set out in the draft order.
10. The Tribunal considered the terms of the draft order and asked Mr Searby to clarify the provisions relating to remuneration. The Tribunal suggested some minor changes to the draft order to make the terms of remuneration clearer. Mr Searby requested an adjournment so that he could obtain instructions from the proposed manager and also discuss the proposed changes with the Respondent's solicitor.

11. Upon resumption of the hearing Mr Searby confirmed that all parties consented to the changes proposed by the Tribunal and on this basis he invited the Tribunal to make an order in the terms of the draft order agreed between the parties.
12. The Tribunal considered the written and oral evidence and submissions made to them. Messrs Austin Rees were a well known and respected local firm and from their collective knowledge and the evidence before them the Tribunal were satisfied that the firm had substantial management experience and were familiar with the duties of a receiver / manager appointed by the Tribunal. The Tribunal were also satisfied that the proposed terms of remuneration were fair and reasonable having regard to the work to be carried out. The Tribunal were also satisfied as to the amount and extent of insurance cover held by Austin Rees.
13. As the parties were in agreement to an order being made, and for the reasons set out above, the Tribunal concluded that this was a case where it was just and convenient to make the order in the terms applied for.
14. On the question of costs, as the Respondent had agreed to an order preventing him reclaiming any of his costs of and incidental to these proceedings by way of service charge, the Tribunal considered that it was just and equitable to make an order under section 20C of the Act.
15. The manager / receiver shall have the liberty to apply to the Tribunal for further directions

The Schedule before referred to:

IN THE LEASEHOLD VALUATION TRIBUNAL

IN THE MATTER OF PART II LANDLORD & TENANT ACT 1987

Case No. CHI00ML/LAM/2008/0001

B E T W E E N :

**(1) MR BRUCE ANDREW CAMPBELL
(2) MR PHILIP LEWIS HAWKINS**

The First Applicants

MR MATT TYSON

The Second Applicant

AND

MR YIANNIS STYLIANOU

ORDER FOR APPOINTMENT OF MANAGER AND RECEIVER

Members of Tribunal: Mr R Wilson (Chair)
Mr T Sennett
Mr R Wilkey

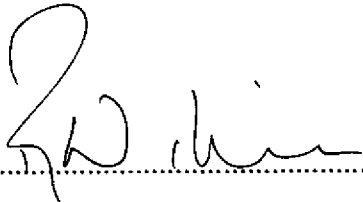
Date of Order: 2nd June 2008

IT IS ORDERED THAT:

1. Mr R J Austin of Austin Rees, 135-137 Dyke Road, Hove, East Sussex BN3 1TJ ('the Manager'), be appointed Manager and Receiver of 18 Upper Market Street, Hove, East Sussex BN3 1AF ('the property') with effect from 6th June 2008.
2. The Manager shall thereafter manage the property in accordance with:
 - a) the respective obligations of the landlord and the lessees under the various leases by which the flats at the property are demised and, in particular, but without prejudice to the generality of the foregoing, with regard to the repair, decoration, provisions of services to and insurance of the property; and
 - b) in accordance with the duties of a manager set out in the Service Charge Residential Management Code (the Code) published by the Royal Institution of Chartered Surveyors and approved by the Secretary of State pursuant to Section 87 of the Leasehold Reform Housing and Urban Development Act 1993.

3. The Manager shall collect all sums whether by way of ground rent, insurance premiums, payment of service charges or otherwise arising and due under the said leases.
4. The Manager shall account forthwith to the freeholder for the time being of the property for the payments of ground rent received by him and shall apply the remaining amounts received by him (other than those representing his fees hereby specified) in the performance of the covenants of the landlord contained in the said leases.
5. The Manager shall make arrangements with the present insurers of the property to make any payments due under the insurance policy presently effected by the Respondent to the Manager.
6. The Manager shall be entitled to the following remuneration by way of fees (which, for the avoidance of doubt, shall be recoverable as part of the service charges in accordance with Clause 4(vi) and paragraph 7 to the Seventh Schedule of the leases), namely:
 - a) a basic annual fee of £150.00 per flat for performing the duties set out in clause 2.5 of the Code;
 - b) professional fees for matters outside of the management charges as set out in clause 2.6 of the Code at the rate of £100.00 per hour;
 - c) in the case of major works with a net cost resulting in any one leaseholder having to contribute in excess of £250.00, the manager shall further be remunerated at 10% of the net cost and in accordance with Clause 3 of the Code, for supervising the said works, including giving the necessary notices;
 - d) Value Added Tax shall be payable in addition to the remuneration specified in paragraphs 6 a), b) and c) above.
7. This Order shall remain in force until 6th June 2010.
8. Pursuant to Section 20C of the Landlord & Tenant Act 1985, all or any of the costs incurred by the Respondent in connection with these proceedings should

not be regarded as relevant costs to be taken into account in determining the amount of any service charges payable by them.



.....

Mr R Wilson (Chair)

Member of the Southern Leasehold Valuation Tribunal and Rent Assessment Panel

Date: 16th June 2008