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Property
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER SECTION 84 OF THE COMMONHOLD AND
LEASEHOLD REFORM ACT 2002**

Case Reference: LON/00AU/LRM/2009/0010

Premises:	5 Tollington Place London N4 3QS
Applicant:	Five Tollington Place RTM Company Ltd.
Respondent:	Netpex Services Ltd.
Date of Application:	12 June 2009
Date of Directions:	18 June 2009
Date of Determination:	4 August 2009
Date Decision Issued:	6 August 2009
Leasehold Valuation Tribunal	Miss S J Dowell BA Hons, Solicitor Mr D Banfield FRICS Mrs R Turner JP

PRELIMINARY

1. This is an application by Five Tollington Place RTM Company Ltd ("the RTM Company") for an Order that it is entitled to acquire the right to manage 5 Tollington Place, London N4 3QS ("the Premises"). The Claim Notice is dated 30 March 2009 and is served pursuant to Schedule 2 of the Right to Manage (Prescribed Particulars and Forms) (England) Regulations 2003 ("The Regulations") and Regulations 4(e) and 8(2). The Claim Notice gives notice of the intention to acquire the right to manage the premises on 10 August 2009. The Notice is signed by Kerry Michelle Tarrant – Secretary, Five Tollington Place RTM Company Ltd.
2. The Counter Notice is undated and alleges that the RTM Company does not have the right to acquire the right to manage the premises because the Notice of Claim is invalid.
3. The freeholder through its Managing Agents, alleges in the Counter Notice that "by reason of failure to have the notices signed by directors authorized on behalf of the company the notice has no legal effect, on 30 March 2009, Five Tollington Place RTM Company Ltd. ("the Company") was not entitled to acquire the rights to manage the premises specified in the claim notice"
4. On 18 June 2009 the Tribunal issued Directions for the exchange of statements and the application was listed for a determination without a hearing pursuant to Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003, Regulation 13.

The Respondent's Case

5. By a Statement of Case dated 26 June 2009 Netpex Services Ltd. submitted that the RTM Notice was not valid as it was only signed by a secretary who had no legal powers in the RTM Company. The Respondent stated that the Applicant had served an RTM notice which had not been signed by the official directors and officers of the RTM Company. The Respondent submitted that in any acquisition by law of the right to manage the directors must sign the acquisition. In addition it was submitted that it was clear from the Articles of Association of the company that only the directors have authority to sign legal notices on behalf of the company and the secretary does not have such legal authority. The Respondent submitted that the RTM Company had not complied with "simple company law" in accordance with its Articles of Association and accordingly the notice is not valid and the RTM company does not have the right to acquire the management.

The Applicant's Case

6. In response Mr Malcolm MacLean MacDonald, a director of the RTM Company, served a Statement of Case dated 13 July 2009. He submitted that the Notice of Claim was properly signed in accordance with the Regulations. The form of the Claim Notice set out in Schedule 2 of the Regulations requires the form to be "signed by authority of the company, [Signature of authorised member or officer]." Mr MacDonald submitted that the signature of Kerry Michelle Tarrant was given as an authorised officer (secretary) or member of the RTM company and was dated 30 March 2009. Mr MacDonald denied that it was clear from the Articles of Association of the company, as alleged by the Respondent, the directors alone and not the secretary have legal authority to sign legal Notices on behalf of the company. He submitted that no such clarity existed and that on the contrary in Article 67 of the Articles it states "the directors may also delegate to any managing director, or any director holding any other executive office, such of their powers as they consider desirable as exercised by him".
7. Mr MacDonald went on to submit that although the Respondent had stated that the RTM Company had not complied with simple company law it did not cite either of the Companies Acts to support this contention or any other legislation upon which it might justify its position.

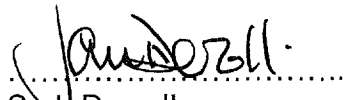
DECISION

8. We have considered the Statement of Case from Netpex Services Ltd. and noted that although it states "it is clear from the Articles of Association of the Company that only the directors have authority to sign on behalf of the Company" the statement does not make specific reference to the clause in the Articles of Association upon which it relies. In addition Netpex Services Ltd. allege that the RTM company has not complied with "simple company law" but make no reference to the statute upon which they rely.
9. The Tribunal, having considered the Regulations and in particular Schedule 2 of the Regulations concludes that the company has complied with the requirements of the Regulations. The Notice of Claim has clearly been "signed by authority of the company" and there is a "signature of authorised member or officer" i.e. the secretary".
10. It is correct that paragraph 67 of the Articles of Association states "the directors may also delegate to any managing director, or any director holding any other executive office, such of their powers as they consider desirable to be exercised by him". Further the Tribunal has noted that paragraph 83 of the Articles of Association deals with the appointment of Secretary and states "subject to the provisions of the

Companies Act, the secretary shall be appointed by the directors for such terms, such remuneration and upon such conditions as they may think fit”.

11. It is clear that Miss Tarrant signed the Notice of Claim on behalf of the company and on its authority and the Notice of Claim is therefore valid.
12. Accordingly, the RTM Company will acquire the right to manage the premises on 10 August 2009 as claimed in paragraph 6 of the Notice of Claim.

Chairman:


S. J. Dowell

Date: 6 August 2009