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

Case Reference : **CHI/21UF/LAM/2014/0010**

Property : **Longridge Court,
Longridge Avenue
Saltdean , Brighton, East Sussex
BN2 8LY**

Applicants : **Mr P Stevens (Flat 12)
Mr I Blake (Flat 1)
Mr I Crawford (Flat 3)
Mr K Pantridge (Flat 7)
Ms L Wells (Flat 10)**

Representative : **Mr T Newey, Solicitor**

Respondent : **Mr P Theodssiou**

Representative : **In person**

Type of Application : **S 24 Landlord and Tenant Act 1987
Appointment of Manager**

Tribunal Members : **Mrs F J Silverman Dip Fr LLM
Mr R Wilkey JP FRICS ISVA
Mr T Sennett MA MCEIH**

**Date and venue of
Hearing** : **City Gate House Dyke Road
Brighton BN3 1TL
18 December 2014**

Date of Decision : **22 December 2014**

DECISION AND ORDER

DECISION

The Applicants' application for the appointment of a manager under s24 Landlord and Tenant Act 1987 is granted.

ORDER

Mrs Jer Overill is appointed as manager of the property for the term of two years from the date of this decision subject to the terms and conditions contained in the attached Management Order.

REASONS

- 1 The Applicants who are tenants of the respective flats in the property as shown above made an application dated 15 September 2014 relating to the premises known as 1-12 Longridge Court, Longridge Avenue Saltdean Brighton East Sussex BN2 8LY for the appointment of a manager under s 24 Landlord and Tenant Act 1987.
- 2 Directions were issued by the Tribunal on 19 September 2014.
- 3 The hearing of the application took place before the Tribunal sitting in Brighton 18 December 2014 at which the Applicants were represented by Mr T Newey Solicitor. The Respondent attended the hearing in person.
- 4 A bundle of documents prepared by the Applicants was put before the Tribunal for its consideration.
- 5 The Tribunal inspected the property immediately before the hearing. The property comprises twelve self contained flats above a row of four retail units situated on a main road at Saltdean a few miles from Brighton and Hove city centre. The property is situated on the corner of a shopping street but adjacent streets appear to be mainly residential in nature. The area is well served by public transport and the sea is less than five minutes walk away. Two separate doorways, one at each end of the block, one serving seven flats, the other serving the remaining five flats, provide a ground floor entrance to the flats. The interior common parts comprise in each case a narrow hallway and staircase from which there is access to each individual unit. The walls of the common hallways and staircases were artexed and showed signs of having been repainted recently. Lighting and emergency lighting was in place and the interior was moderately clean. The exterior of the building had recently been rendered (by comparison with the photographs in the hearing bundle which showed a brick exterior to the building) and the windows were plastic double glazed units. The gable ends of the upper storeys had pvc cladding. The state of the pitched tile roof and chimney stacks was not ascertainable from ground level. Work had clearly been carried out to exterior which post-dated the photographs contained in the hearing bundle, but it was also clear that further work remained to be done to

- both the exterior and interior common parts. The Tribunal was also shown the garage block and side and rear garden areas all of which were in very poor condition. The Tribunal is unclear whether the garden areas and more than one garage are within the landlord's title to this property as the areas shown to the Tribunal appeared to extend beyond the delineation shown on the Land Registry title plan.
- 6 Six of the flats are held under long leases, the remaining six flats are retained by the landlord who lives in one and lets the others to short term tenants.
- 7 The Applicant's application cited a number of breaches of covenant by the Respondent landlord in relation to his repairing obligations under the leases and the fact that there had been a breakdown in the relationship between the Respondent landlord and the Applicant tenants.
- 8 Having inspected the property and having read the 'Report on Works' made by Mr P Street FRICS IRRV dated 9 December 2014 which was prepared on behalf of the Applicants the Tribunal is not satisfied that sufficient grounds exist under s24(2)(a) Landlord and Tenant Act 1987 to justify the appointment of a Manager under the provisions of that subsection in relation to the landlord's alleged breaches of repairing covenants. Mr Street had surveyed the property on 8 April 2014 and his report (pages 12-23) highlighted significant defects in the building. Since that time the Respondent had carried out works including redecoration and by the date of Mr Street's further report the condition of the property appeared to have improved.
- 9 However, there is ample documentary evidence within the hearing bundle (eg pages 34-38) that the relationship between the Applicants and Respondent had irretrievably broken down and in circumstances where the property still needs a considerable amount of work to be done in order to bring it up to and maintain it at a reasonable residential standard, the Tribunal, in its discretion, considers that the appointment of a Manager under the provisions of s24 (2) (b) is justified and would be of benefit to both parties.
- 10 The parties had agreed that if the Tribunal did decide to appoint a Manager they would jointly nominate Mrs Jer Overill for the position.
- 11 Although the Respondent had previously been in receipt of legal advice he was unrepresented at the hearing. The Tribunal explained to him the consequences of such an appointment on his position as landlord and outlined the duties which the Manager would undertake.
- 12 In particular it was stressed that although the Respondent, as landlord, would continue to collect ground rents from the Applicants all other practical and financial matters relating to the management of the property would be carried out by the Manager during the term of her appointment. The Respondent would not, during the term of the appointment, be able to carry out his own repairs to the property. The Tribunal also reminded the Respondent that if a Manager was appointed the Manager's duty was to the Tribunal and not to the landlord. The manager would consult with both the landlord and tenants but did not take instructions from either party.

13 The Respondent said that he was in agreement with the appointment, would be pleased to let someone take over the responsibility for the property and understood that as the freeholder of six of the flats in the building he would be required to contribute towards the management fees and the costs of upkeep and repairs to the property.

14 The Tribunal is satisfied that the Applicant's case for the appointment of a manager is justified under the provisions of s24 (2) (b) for the reasons cited above.

15 The parties' joint proposed nominee for the appointment as Manager of the property Mrs Jer Overill, was present at the hearing and was questioned by the Tribunal as to her experience and suitability. The Tribunal considered that Mrs Overill would be suitable for appointment as manager under the terms of the order annexed.

16 The Law

Landlord and Tenant Act 1987 s24 (as amended)

Appointment of manager by the court.

(1) A leasehold valuation tribunal may, on an application for an order under this section, by order (whether interlocutory or final) appoint a manager to carry out in relation to any premises to which this Part applies—

(a) such functions in connection with the management of the premises, or

(b) such functions of a receiver,

or both, as the tribunal thinks fit.

(2) A leasehold valuation tribunal may only make an order under this section in the following circumstances, namely—

(a) where the tribunal is satisfied—

(i) that any relevant person either is in breach of any obligation owed by him to the tenant under his tenancy and relating to the management of the premises in question or any part of them or (in the case of an obligation dependent on notice) would be in breach of any such obligation but for the fact that it has not been reasonably practicable for the tenant to give him the appropriate notice, and

(ii)

.....
(iii) that it is just and convenient to make the order in all the circumstances of the case;

(ab) where the tribunal is satisfied—

(i) that unreasonable service charges have been made, or are proposed or likely to be made, and

(ii) that it is just and convenient to make the order in all the circumstances of the case;

(ac) where the tribunal is satisfied—

(i) that any relevant person has failed to comply with any relevant provision of a code of practice approved by the Secretary of State under section 87 of the Leasehold Reform, Housing and Urban Development Act 1993 (codes of management practice), and

(ii) that it is just and convenient to make the order in all the circumstances of the case; or

(b) where the tribunal is satisfied that other circumstances exist which make it just and convenient for the order to be made.

(2ZA) In this section "relevant person" means a person—

(a) on whom a notice has been served under section 22, or

(b) in the case of whom the requirement to serve a notice under that section has been dispensed with by an order under subsection (3) of that section.

(2A) For the purposes of subsection (2)(ab) a service charge shall be taken to be unreasonable—

(a) if the amount is unreasonable having regard to the items for which it is payable,

(b) if the items for which it is payable are of an unnecessarily high standard, or

(c) if the items for which it is payable are of an insufficient standard with the result that additional service charges are or may be incurred.

In that provision and this subsection "service charge" means a service charge within the meaning of section 18(1) of the Landlord and Tenant Act 1985, other than one excluded from that section by section 27 of that Act (rent of dwelling registered and not entered as variable).

(3) The premises in respect of which an order is made under this section may, if the tribunal thinks fit, be either more or less extensive than the premises specified in the application on which the order is made.

(4) An order under this section may make provision with respect to—

(a) such matters relating to the exercise by the manager of his functions under the order, and

(b) such incidental or ancillary matters,

as the tribunal thinks fit; and, on any subsequent application made for the purpose by the manager, the tribunal may give him directions with respect to any such matters.

(5) Without prejudice to the generality of subsection (4), an order under this section may provide—

(a) for rights and liabilities arising under contracts to which the manager is not a party to become rights and liabilities of the manager;

(b) for the manager to be entitled to prosecute claims in respect of causes of action (whether contractual or tortious) accruing before or after the date of his appointment;

(c) for remuneration to be paid to the manager by any relevant person, or by the tenants of the premises in respect of which the order is made or by all or any of those persons;

(d) for the manager's functions to be exercisable by him (subject to subsection (9)) either during a specified period or without limit of time.

(6) Any such order may be granted subject to such conditions as the tribunal thinks fit, and in particular its operation may be suspended on terms fixed by the tribunal.

(7) In a case where an application for an order under this section was preceded by the service of a notice under section 22, the tribunal may, if it thinks fit, make such an order notwithstanding—

(a) that any period specified in the notice in pursuance of subsection (2)(d) of that section was not a reasonable period, or

(b) that the notice failed in any other respect to comply with any

requirement contained in subsection (2) of that section or in any regulations applying to the notice under section 54(3).

(8) The Land Charges Act 1972 and the Land Registration Act 1925 shall apply in relation to an order made under this section as they apply in relation to an order appointing a receiver or sequestrator of land.

(9) A leasehold valuation tribunal may, on the application of any person interested, vary or discharge (whether conditionally or unconditionally) an order made under this section; and if the order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 1925, the tribunal may by order direct that the entry shall be cancelled.

(9A) the court shall not vary or discharge an order under subsection (9) on the application of any relevant person unless it is satisfied—

(a) that the variation or discharge of the order will not result in a recurrence of the circumstances which led to the order being made, and

(b) that it is just and convenient in all the circumstances of the case to vary or discharge the order.

(10) An order made under this section shall not be discharged by a leasehold valuation tribunal by reason only that, by virtue of section 21(3), the premises in respect of which the order was made have ceased to be premises to which this Part applies.

(11) References in this Part to the management of any premises include references to the repair, maintenance or insurance of those premises.

Judge F J Silverman as Chairman
Date 22 December 2014

Note:
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

SCHEDULE
FIRST-TIER PROPERTY TRIBUNAL
MANAGEMENT ORDER

CASE REFERENCE: CHI/21UF/LAM/2014/0010

PROPERTY: LONGRIDGE COURT
LONGRIDGE AVENUE
SALTDEAN BRIGHTON BN2
8LY

BETWEEN:

APPLICANTS: IAN BLAKE, IAN CRAWFORD,
KEITH FREDERICK JAMES
PANTRIDGE, LAURA
ELIZABETH VICTORIA WELLS
and PHILIP EDWARD STEVENS

RESPONDENT: PANAYIOTIS THEODSSIOU

1. In this Order
 - a. “the Property” means Longridge Court Longridge Avenue Saltdean Brighton BN2 8LY
 - b. “the Respondent” includes the landlord and any successors in title to the Respondent.
 - c. “the Lessee” means a person holding under a long lease as defined by Section 59(3) of the Landlord and Tenant Act 1997 (“the Act”)

2. It is ordered that:

In accordance with Section 24(1) of the Landlord and Tenant Act 1987 (“the Act”) Mrs Jer Overill of The Hideaway 2 Furze Hill Hove BN3 1PA (“the Manager”) be appointed manager of the Property for a period of two years from the date of this order (“the Period”)

3. The Manager shall during the Period manage the Property in accordance with:

- a. The Directions and Schedule of Functions and Services set out below
- b. The rights and obligations of the Landlord under the leases demising the flats at the Property and in accordance with all relevant statutory requirements and in compliance with the requirements of the service charge Residential Management Code published by the Royal Institution of Chartered Surveyors and approved by the Secretary of State of England and Wales under Section 87 of the Leasehold Reform Housing and Urban Development Act 1993.

DIRECTIONS

1. From the date of appointment and throughout the appointment the Manager shall maintain a policy of professional indemnity insurance to provide sufficient cover for her obligations and liabilities as Manager.
2. The parties to this application shall, not later than 28 days from the date of this Order, provide all necessary information to the Manager and arrange an orderly transfer of responsibilities. All accounts, books, records, survey reports and funds shall be transferred within 28 days to the Manager.
3. The Manager is entitled to such disclosure of documents as held by the Respondent, their advisors or agents as is reasonably required for the proper management of the Property.
4. The rights and liabilities of the Landlord arising under any contracts of insurance, and/or any contract for the provision of any services to the Property shall in 28 days from the date of this Order become the rights and liabilities of the Manager.
5. The Manager and the parties shall be entitled to apply to the Tribunal for further directions.
6. The Manager shall be entitled to remuneration as set out below.
7. The Landlord shall allow access to the exterior and communal areas at the Property by the Manager and/or any contractor appointed by her pursuant to the terms and provisions of this Order to enable work and maintenance to be carried out and also to allow exercise by the Lessees of the rights granted to them in their respective leases.

SCHEDULE OF FUNCTIONS AND SERVICES

Service Charges

- 1.1 Prepare an annual service charge budget, administer the service charge and prepare appropriate accounts in accordance with the relevant leases and any relevant Code of Practice.
- 1.2 Demand and collect service charges, insurance premiums and any other payments (other than ground rent) arising under the relevant leases as appropriate.
- 1.3 Hold all monies received pursuant to this Order and/or pursuant to the lease provisions as a trustee in an interest bearing account (if appropriate) pending such monies being defrayed.
- 1.4 The Manager shall be entitled to take such action and Court or Tribunal proceedings as may be necessary to collect the service charges or rent arrears and to take such action in the Courts or Tribunals as may be necessary or desirable to secure compliance with the Lessees' obligations under the leases relating to the flats in the Property including any action necessary to enforce the obligation of the Respondent in respect of the flats in the building retained by the Respondent.

Accounts

- 2.1 Prepare an annual statement of account detailing all monies received and expended and held over or held by way of reserve fund.
- 2.2 Produce for inspection receipts or other evidence of expenditure.
- 2.3 All monies collected will be accounted for in accordance with any relevant RICS Code of Practice.

Maintenance and Management

- 3.1 Arrange manage and where appropriate supervise all repair and maintenance, building work and service contracts applicable to the Property and instruct contractors to attend to the same as appropriate.
- 3.2 If applicable, the Manager is to obtain quotations from an RICS surveyor to carry out the following:
 - (a) A survey of the Property
 - (b) Prepare a specification of works
 - (c) Prioritise the repairs with a view to spreading the costs over a period of time
 - (d) Prepare an estimate of costs for the works to be prioritised.
- 3.3 Based on the information supplied by the RICS surveyor, the Manager is to prepare a report for discussion with the parties.

- 3.4 the Manager will instruct the surveyor to obtain quotations for the works as set out in the specification of works and time frame and the Manager will, as appropriate, prepare and enter into the S20 consultation process.

Fees

- 4.1 During the first year of this Order:

- (a) A fee not exceeding £200.00 per annum plus VAT per unit for the basis management duties listed (i) to (xii) below

- i. Collection of service charges.
- ii Payment of all invoices
- iii Maintain service charge accounts up to Trial Balance and handover to an accountant for review and producing year end accounts.
- (iv) Managing day to day repair issues
 - (a) Arrange a contractor to carry out repairs
 - (b) Cost of repairs to be paid for from service charges.
- (v) Provide a telephone number for emergency out of hours calls of a maintenance nature.
- (vi) Regular on site inspections.
- (vii) Communicate with Lessees and Landlord
- (viii) Hold on site meetings during business hours.
- (ix) Provide a point of contact for maintenance issues.
- (x) Provide a point of contact for accounts issues.
- (xi) Annual report to Lessees and Landlord.
- (xii) Oversight of Health and Safety compliance by in house Compliance Manager.

- (b) Reasonable fees for work outside of basic management duties at an hourly rate not exceeding £100.00 plus VAT

- Attending Court cases
- Evening meetings
- Notices in connection with Section 20 procedures

- 4.2 In the second year of this Order, the Basic Fee referred to in paragraph 4.1(a) above shall be increased annually with RPI.