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

Case reference : LON/00BK/OLR/2013/1486

Property : 14 Kings Court, 31 Prince Albert Road, London NW8 7LT

Applicant : Aceborough Corporation NV

Representative : DAC Beachcroft LLP

Respondent : Frogour Ltd.

Representative : Olswang

Type of application : Section 48 Leasehold Reform, Housing and Urban Development Act 1993

Tribunal Judge : F Dickie

Date of jurisdiction decision : 20 March 2014

DECISION

Decision of the tribunal on the preliminary issue

The application to the Tribunal was made in time.

Facts and Reasons

1. The Applicant tenant seeks a determination of the premium and other terms of acquisition remaining in dispute in respect of a statutory lease renewal. The Respondent landlord asserts that the appeal to the Tribunal was made out of time, and thus that the Tribunal has no jurisdiction to determine it. Directions were issued for the determination of this matter as a preliminary issue on the papers and,

neither party having requested an oral hearing, I have determined the matter on the basis of their written representations.

2. Section 48(2) of the Act requires the tenant to apply to the Tribunal "... not later than the end of the period of six months beginning with the date on which the counter notice ... was given to the tenant".
3. The counter notice was served by hand on the Applicant's solicitors on 13 May 2013. There is no dispute between the parties that the last date for bringing the appeal to the Tribunal was 12 November 2013. The tenant's application was delivered by hand to the security guard at the building in which the Tribunal is situated at 18:07 on 12 November 2013, when the Tribunal was closed.
4. The Respondent relies on Rule 15 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 ("the 2013 Rules"):

"An act required by these Rules, a practice direction or a direction to be done on or by a particular date may be done before 5pm on that day"
5. The Respondent further contends that delivery of the application in the manner that occurred in this case constitutes making an application to the Tribunal not on that day but on the next business day.
6. I agree however with the Applicant's contention that, given the wording of section 48(2), an appeal may be brought to the Tribunal at any time before midnight on the last day of the period. The Act does not specify the time by which an application may be made. Rule 26(1) of the 2013 Rules provides that "An applicant must start proceeding before the Tribunal by sending or delivery to the Tribunal a notice of application". The application was delivered to the Tribunal building before midnight and (following the decision of *Van Aken v Camden London Borough Council* [2002 EWCA Civ 1724 cited by the Applicant) this was sufficient to constitute *delivery*, in spite of there being no Tribunal staff to receive or authenticate the document.
7. There is no requirement in the 2013 Rules for the application to be brought by 5pm, and it is not an "act required by these Rules, a practice direction or a direction to be done on or by a particular day" pursuant to Rule 15. Rather, the act is required to be done by a particular day pursuant to statute. Accordingly, Rule 15 does not apply.
8. In any event, were it to apply I would exercise discretion to extend that deadline under Rule 8(2) in the present case, the delay being negligible and the cause of no prejudice to the landlord, and it being just to do so.

Name: F Dickie

Date: 20 March 2014