

12459



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

Case reference : **LON/00AG/LAM/2017/0023**

Property : **64 Fitzjohns Avenue, London NW3
5LT**

Applicant : **Mr Martin Kingsley (K&M Group
Ltd)**

Representative : **In person**

Respondent : **1. Dr Simon Gabbay (Landlord)
2. Slaprine Limited (Flat A)
3. Ms Emma Casdagli (Flat B)
4. Mr and Mrs M A Mirzai (Flat C)
5. Ms Susan Oldroyd (Flat D)
6. Prof DV & Mrs V Green (Flat E)**

Representative : **In person**

Type of application : **Variation of order for the
appointment of a manager**

Tribunal member(s) : **Judge Robert Latham
Miss Marina Krisko BSc FRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **18 October 2017**

DECISION

The Tribunal extends the appointment of Mr Martin Kingsley of K & M Group as the manager of the property at 64 Fitzjohns Avenue, London, Nw3 5LT for a period of three years from 18 October 2017 on the terms of his existing appointment. These terms are annexed to the Order made by the Tribunal on 19 August 2014, as varied by a Tribunal on 18 July 2016.

Background

1. On 19 August 2014, a Tribunal appointed Mr Martin Kingsley of K & M Group as the manager of the property at 64 Fitzjohns Avenue, London, NW3 5LT for a period of three years from 1 September 2014. The terms of the appointment are annexed to the determination.
2. On 18 July 2016, a Tribunal varied the terms of the appointment. The Tribunal permitted the manager to charge (i) an annual management fee of £750 per flat; (ii) an additional charge of £150 per hour pro rata for pursuing arrears and to be paid only by those being pursued for arrears; and (iii) a fee representing 4% of the cost of the tender for the proposed major works.
3. The appointment was due to expire on 31 August 2017. On 4 August 2017, the manager applied to vary the order by extending it for a further three years. He contends that a number of the issues that lead to the appointment are unresolved and that a major works programme is still in hand.
5. On 14 August, the Tribunal gave Directions. The management order was extended until 30 November 2017. Any party who opposed the application was directed to file a statement in response setting out why the application is opposed.
6. No party has opposed the application. On 24 August, Ms Olroyd (Flat D) and on 1 September, Ms Casdagli (Flat B) e-mailed the Tribunal supporting the application. On 11 October, Prof. And Mrs Green (Flat E) wrote to the Tribunal stating that whilst they did not oppose the application, they questioned why the reappointment is necessary. They stated that they were anxious that the manager should act in accordance with the terms of their lease. On 9 November 2016, a Tribunal had determined an application which they had made under Section 27A of the Landlord and Tenant Act 1985 (LON/00AG/LSC/2016/0234) in which the Tribunal had noted that the lease prescribed that interim service charges to be payable on 25 March and 29 September, whereas the manager had taken a pragmatic approach to demand them on 1 January and 1 July.
7. At the hearing, the following attended: Mr Kingsley (the manager); Dr Gabbay (the landlord); and Prof and Mrs Green (Flat E). All agreed to Mr Kingsley's appointment being extended by a period of three years from 18 October. The Tribunal is satisfied that it is just and convenient to make extend the order and that this is necessary to ensure that the property is properly managed and put in a proper state of repair.
8. The Tribunal has permitted the manager to charge an annual management fee of £750 per flat, which is higher than normal. This reflected the challenges faced by the Applicant in managing this property. If these difficulties are resolved and the management duties become less onerous, it may be that the manager will review with the lessees the charges that are payable.

Judge Robert Latham
23 October 2017

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).