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

Case reference : LON/00AN/LAM/2018/0008

Property : 127 Coningham Road, London W12 8BU

Applicant : Mr David Parry

Representative : In Person

Respondent : Optionjoin Limited

Representative : Mr Jamie Loughborough

Type of application : Appointment of Manager

Tribunal members : Judge N Hawkes
Mr N Martindale FRICS

Venue : 10 Alfred Place, London WC1E 7LR

Date of decision : 20 September 2018

DECISION

Background

1. This is an application brought by the applicant, Mr David Parry, for Ms Joanna Roznowska to be appointed by the Tribunal as the manager of the property at 127 Coningham Road, London W12 8BU ('the Property').
2. The Tribunal has been informed that the Property is a Victorian house which has been converted into four flats, each of which is held on a long lease.

3. All of the leaseholders, including the applicant, are directors of the respondent company. The Tribunal has been informed that the respondent's representative at the hearing, Mr Loughborough, is the only lessee who resides at the Property.
4. A preliminary notice under section 22 of the Landlord and Tenant Act 1987, dated 25 April 2018, has been served on the respondent. No issue has been taken with the form or content of this notice.

The hearing and evidence

5. The applicant, Mr Parry, attended the hearing in person and Mr Loughborough attended the hearing on behalf of the respondent, accompanied by another leaseholder, Mr Xu Yan.
6. The fourth leaseholder, Mr Christopher Riley, did not attend the hearing. However, Mr Loughborough confirmed that he had spoken to Mr Riley and that he had Mr Riley's authority.
7. Mr Parry and Mr Loughborough both gave oral evidence to the Tribunal. They were in agreement that the Property is in a poor state of repair. The Tribunal was informed that no significant repairs have been carried out to the Property by the respondent for at least 13 years.
8. The Tribunal was informed that there is, in particular, a current need for:
 - (i) a fire risk assessment;
 - (ii) an asbestos management plan;
 - (iii) an electrical safety certificate;
 - (iv) emergency lighting;
 - (v) an inspection of the roof (and potentially repairs to the roof);
 - (vi) the external and internal decoration of the Property;
 - (vii) the clearance and maintenance of communal gardens;
 - (viii) repairs to the steps leading to the upper ground floor;
 - (ix) repairs to external doors and windows; and
 - (x) the cleaning of internal common parts.
9. The Tribunal has not inspected the Property or received any expert evidence and it makes no findings as to the nature and extent of the work that is required. However, it is satisfied, on the basis of the

evidence it heard, that significant works of maintenance and repair are likely to be needed as a matter of some urgency.

10. The parties informed the Tribunal that relations between two of the leaseholders have broken down completely (Mr Loughborough explained that he had taken on the role of acting as a “go between”) and that, in the absence of a Tribunal appointed manager, it is unlikely that the respondent company will be in a position to fulfil its repairing obligations.
11. The parties were in agreement that they wished Ms Roznowska to be appointed. The Tribunal carefully questioned Ms Roznowska and satisfied itself that she would be a suitably appointee. Ms Roznowska confirmed her willingness to accept the proposed appointment.
12. On adjourning the proceedings in order to enable discussions to take place between the parties and the proposed Manager (in particular, to agree the timing and amount of the payments which would be made on account of estimated service charges), the terms of the proposed Management Order were agreed, subject to the Tribunal’s approval.
13. The parties agreed with a preliminary view expressed by the Tribunal that its order should not cover company secretarial matters and these were removed from the proposed draft order Management Order.

The Tribunal’s determination

14. In accordance with section 24(1)(b) Landlord and Tenant Act 1987, Ms Joanna Roznowska of Safety Property Management International Limited (‘the Manager’) is appointed as manager of the Property.
15. The Tribunal is satisfied that Ms Roznowska is a suitable appointee; that no significant repairs have been carried out by the respondent company for many years; that the Property is in need of urgent maintenance and repair; and that, in the absence of a Tribunal appointed manager, the condition of the Property is likely to deteriorate. Further, the Tribunal notes that all parties are in agreement that Ms Roznowska should be appointed manager.
16. Accordingly, the Tribunal is satisfied that circumstances exist which make it just and convenient for this order to be made.
17. The order shall continue for a period of two years from 14 September 2018. If the parties wish to apply for any extension of the order, they are encouraged to do so at least three months before the order expires.
18. The Manager shall manage the Property in accordance with:
 - (a) The directions and schedule of functions and services attached to this order;
 - (b) The obligations of the landlord under the leases by which the flats at the Property are demised by the respondent and in

particular with regard to repair, decoration, the provision of services and the insurance of the Property; and

- (c) The duties of a manager set out in the Service Charge Residential Management Code ('the Code') or such other replacement code published by the Royal Institution of Chartered Surveyors and approved by the Secretary of State pursuant to section 87 Leasehold Reform Housing and Urban Development Act 1993.
19. The Manager shall register the order against the landlord's registered title as a restriction under the Land Registration Act 2002, or any subsequent Act.
20. The Tribunal notes that the applicant and the respondent agree that each shall bear their own costs of this application and that the respondent agrees not to seek a contribution to its costs from the applicant through the service charge.

Name: Judge N Hawkes

Date: 20 September 2018

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).

DIRECTIONS

1. From the date of the appointment and throughout the appointment the Manager shall ensure that she has appropriate professional indemnity cover in the sum of at least £1,000,000 and shall provide copies of the current cover note upon a request being made by any lessee of the Property, the Respondent or the Tribunal.
2. That no later than four weeks after the date of this order the parties to this application shall provide all necessary information to and arrange with the Manager an orderly transfer of responsibilities. No later than this date, the Applicant, Respondent and lessees shall transfer to the Manager any and all accounts, books, records and funds in their possession (including, without limitation, any service charge reserve fund).
3. The rights and liabilities of the Respondent arising under any contracts of insurance, and/or contract for the provision of any services to the Property shall upon 28th September 2018 become rights and liabilities of the Manager and by that date the Respondent will supply complete insurance details and copy insurance schedules policies and premium receipts to the Manager.
4. The Manager shall account forthwith to the Respondent for the payment of ground rent received by her and shall apply the remaining amounts received by her (other than those representing her fees) in the performance of the Respondent's covenants contained in the said leases.
5. The Manager shall be entitled to remuneration (which for the avoidance of doubt shall be recoverable as part of the service charges of leases of the Property) in accordance with the Schedule of Functions and Services attached.
6. By no later than 6th September 2019, the Manager shall prepare and submit a brief written report for the Tribunal on the progress of the management of the Property up to that date.
7. Within 28 days of the conclusion of the management order, the Manager shall prepare and submit a brief written report for the Tribunal, on the progress and outcome of the management of the Property up to that date, to include final closing accounts. The Manager shall also serve copies of the

Accounts

- (i) Prepare and submit to the Respondent and lessees an annual statement of account detailing all monies received and expended. The accounts to be certified by an external auditor, if required by the Manager.
- (ii) Maintain efficient records and books of account which are open for inspection by the Respondent and the lessees. Upon request, produce for inspection, receipts or other evidence of expenditure.
- (iii) Maintain on trust an interest bearing account/s at such bank or building society as the Manager shall from time to time decide, into which service charge contributions and all other monies arising under the leases shall be paid.
- (iv) All monies collected will be accounted for in accordance with the accounts regulations as issued by the Royal Institution for Chartered Surveyors.

Maintenance

- (i) Deal with routine repair and maintenance issues and instruct contractors to attend and rectify problems. Deal with all building maintenance relating to the services and structure of the Property in accordance with the terms of the lessees' respective leases.
- (ii) The consideration of works to be carried out to the Property in the interests of good estate management and making the appropriate recommendations to the Respondent and the lessees.
- (iii) The setting up of a planned programme to allow for the periodic re-decoration and repair of the exterior and common parts of the Property.
- (iv) Comply with all health and safety, statutory and regulatory obligations that might fall upon the Respondent, manager or person in control of a residential block of flats from time to time.

Fees

- (i) Fees for the above mentioned management services will be a basic fee of £250 per annum per flat. Those services to include the services set out in the Service Charge Residential Management Code published by the RICS and as above.
- (ii) Major works carried out to the Property (where it is necessary to prepare a specification of works, obtain competitive tenders, serve relevant notices on lessees and supervising the works) will be subject to a charge of 7.5% of the contract value.
- (iii) VAT to be payable on all the fees quoted above, where appropriate, at the rate of prevailing on the date of invoicing.
- (iv) The preparation of insurance valuations and the undertaking of other tasks which fall outside those duties above are to be charged for on a timed basis at the hourly rate of £30.

Complaints procedure

- (i) The Manager shall operate a complaints procedure in accordance with or substantially similar to the requirements of the Royal Institution of Chartered Surveyors.