

BETWEEN:**JOSEPH KENNEDY****PLAINTIFF / APPELLANT****– AND –****SWEEPSTAKES OWNERS MANAGEMENT COMPANY CLG****DEFENDANT****JUDGMENT of Mr Justice Max Barrett delivered on 22nd July, 2019.**

1. Mr Kennedy rents an apartment from a unit owner at a block of apartments here in Dublin. As a tenant, he is not a member of the Sweepstakes Owners Management Company CLG (SOMC); his landlord is. Mr Kennedy has come seeking an order granting him leave to bring proceedings under s.24 of the Multi-Unit Development Act 2011. That is a provision concerned with, *inter alia*, dispute resolution in the multi-unit development context.

2. Section 23(1) of the Act of 2011 provides that an owners' management company may make house rules. Section 23(3) provides that house rules made under s.23(1) shall be made in a manner consistent with, *inter alia*, "(b) the objective of the fair and equitable balancing of the rights and obligations of the occupiers and the unit owners". Mr Kennedy's concern is that Sweepstakes Owners Management Company CLG (SOMC) is seeking to implement house rules, within the meaning of the Act of 2011, which, he claims, are in breach of law in various respects.

3. Section 25 of the Act of 2011 provides as follows:

"(1) The following persons may apply for, or appear and be heard at an application for, an order under section 24:

(a) the owners' management company relating to the relevant multi-unit development or a part of the relevant multiunit development;

(b) any member of such an owners' management company;

(c) any trustee under a will, settlement or other disposition of land by such member;

(d) the personal representative of a member of such an owners' management company;

(e) the developer of the multi-unit development;

(f) with the permission of the court, such other person as the court sees fit."

4. Curiously perhaps, a tenant such as Mr Kennedy, whom one would have thought was in a class of persons (tenants) who are directly affected by many house rules is not listed in s.25 among the people who "*may apply for, or appear and be heard at an application for, an order under section 24*". Rather a tenant needs to get the permission of the court to "*apply for, or appear and be heard at an application for, an order under section 24*" by establishing to the satisfaction of the court that s/he is a person to whom the court sees fit to give permission. Save in instances where a tenant who comes to court seeking the permission contemplated by s.25(1)(f) is seeking same in the context of a grievance for which the court can see no rational basis and/or for which the court cannot see that any form of relief would be available from the proposed defendant/s, the court struggles to see how such permission could readily be refused. Here Mr Kennedy easily surpasses this low threshold; there is no reason presenting why the permission should be refused and good reason why it should not be refused; it will therefore be granted.