

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
UNDER S. 24(1) AND S.22(3) LANDLORD & TENANT ACT 1987

Address: 74a and 74b Lansdowne Road
London
W11

Applicants: Mr. G and Mrs. A. Fetherstonhaugh

Respondent: Personal Representatives of Mr & Mrs
Chambers Elizabeth Edge (deceased)

Background:

1. The Tribunal was dealing with applications under S.24(1) and S.22(3) of the Landlord & Tenant Act 1987 ("the Act"), being, under S.24(1) an application by for the appointment of manager, and, under S.22(3) for dispensation with the requirement to serve a preliminary notice under S.22 of the Act.
2. The application was received on 2nd October and included a statement of grounds for the application, a schedule of functions which the manager should undertake and a schedule of persons likely to be affected by the application.

Statement of Grounds:

3. The Applicants own a long leasehold interest in Flat 74B Lansdowne Road, W11, being one of two flats demised for a term of 199 years, under leases which provide for the lessor to maintain and insure the building.
4. The Freeholder of the property had died by the time that the Applicants purchased their flat in 1997, and the insurance was arranged by a Mr. Bowerbank the lessee of Flat 74A.
5. Unfortunately, Mr. Bowerbank died in April 2002 leaving the building uninsured and despite attempts to do so, neither his representatives nor the Applicants have been able to locate the freeholder to effect substitute cover.
6. The Applicants have been able to secure limited insurance cover for their own property but not the remainder of the building, however, this policy expires on 24th October 2003 and brokers have refused to reinsure the property after that date.

7. The Applicants have not been able to serve a notice under S.22 of the Act as they do not know the whereabouts of the freeholder or his/her representatives.
8. The Tribunal copied the application and supporting documents to Mr. Broad of Browning & Co, the representatives for the late Mr. Bowerbank, and informed both parties that they would proceed to make a determination on a 'documents only' basis unless either party requested a hearing. Neither party did so. The Applicant responded with copies of the land registry search and a copy of an e-mail from Mr Broad, but no issues were raised that might prevent the Tribunal from proceeding. No response was received directly from Browning and Co.

Decision:

S.22(3) Dispensation with notice under S.22

9. The Tribunal is satisfied that the Applicants have made every attempt to contact the freeholder without success, in addition they have ensured that the representatives for the late Mr. Bowerbank have been kept informed of their application.
10. Having received no objection to proceeding on the basis of a documents only determination, the Tribunal continued and therefore **determines** that the requirement to serve preliminary notice under S.22 of the Act is dispensed with in accordance with S.22(3).

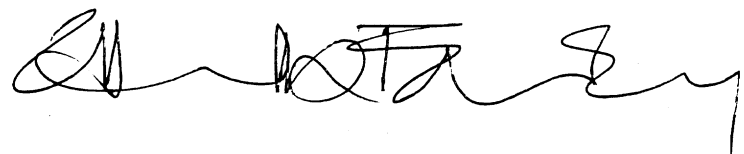
Decision under S.24(1)

11. The Tribunal is concerned to note that the property will be uninsured with effect from 24th October 2003 and therefore makes an Order under S.24(1) of the Act for the appointment of a manager, on the basis of S.24(2)(3) of the Landlord & Tenant Act 1987, that it is just and convenient to make the order in all the circumstances of the case. The Order is appended to this decision. The appointment is for the limited purpose of securing and maintaining insurance on the property, any further powers of management may only be exercised following an order of the Tribunal for variation.

Tribunal:

Miss A Hamilton-Farey FRICS, FCIArb

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Date:

22nd October, 2003

LEASEHOLD VALUATION TRIBUNAL

Management Order under S.24(1) Landlord & Tenant Act 1987

Reference: LON/00AW/NAM/2003/0010
LON/00AW/NMD/2003/0002

Re: 74a & 74b Lansdowne Road, London W11 ("the property")

Between:

Mr Guy & Mrs. Alexia Fetherstonhaugh Applicant

And

Mr & Mrs Edge (Deceased) Respondent

Order for the Appointment of Mrs. A. Fetherstonhaugh as Manager and Receiver.

- a. That Mrs. A. Fetherstonhaugh of 19 St. Anns Villas, London W11 ("the Manager") be appointed Manager and Receiver, with effect from 23rd October 2003, and continuing until the order is revoked or varied.
- b. That she shall manage the property in accordance with the respective obligations of the landlord and lessees under the various leases by which the flats at the property are demised in so far as they relate to the provision of insurance of the property.
- c. That she shall receive from the Lessees of the property their due proportion of the service charge attributable to the cost of insuring the property in accordance with their respective leases.

Tribunal:

Aileen Hamilton-Farey FRICS, FCI Arb.

Date:


23/10/03