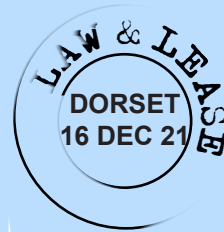




There are 16 blocks of flats at Lindsay Court.

In 2014, Mr Benthon was appointed by the Tribunal under s.24, Landlord & Tenant Act 1987, to manage the whole development.

In July 2020 however, the FTT determined that, from 22 January 2021, Lindsay Court (StAnnes) RTM Company Ltd would acquire the right to manage block 1.



On that date, Mr Benthon was still the manager of the development. He and the freeholder applied for a variation of the management order so that he could continue to manage Block 1, despite the RTM Company's acquisition of the right to manage. The effect of that, said the Upper Tribunal (Judge Elizabeth Cooke) in *Benthon v Lindsay Court (St Annes) RTM Company Ltd* [2021] UKUT 166 (LC), was that the RTM Company would be required:

“immediately on its acquisition of the right to manage the premises, to cede the management of Block 1 back to Mr Benthon...”

“It is uncontroversial” she continued, that “when the [RTM Company] acquires the right to manage Block 1 of Lindsay Court, Mr Benthon will no longer be able to manage Block 1, unless he can secure the order he seeks... It is also uncontroversial that following the acquisition of the right to manage by an RTM Company the FTT could appoint a manager to displace it if, and only if, the conditions set out in section 24(2) of the 1987 Act are then made out; that is the effect of section 105(4)”.

She declined to grant the application to vary the management order, saying:

“... an order depriving a third party of management powers over the property, where that person was not bound by the initial appointment of the manager, simply is not a variation. However described, it is a new order”.

Therefore:

“On 22 January 2021 the [RTM Company] will acquire the right to manage the premises, including Block 1. If the freeholder or the tenants find that they can, in the future, make a case under section 24(2) of the 1987 Act then they will be able to apply for the appointment of a manager to take over from the [RTM Company], but that cannot be achieved by variation of the existing order.”