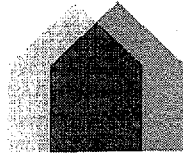


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**Residential
Property
TRIBUNAL SERVICE**

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
DIRECTIONS BY LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL
CaseNoLON/00AC/LSC/2007/0325**

LANDLORD AND TENANT ACT 1985 SECTION 27A

Premises: 30 c Glenthorne Road, London N11 3HJ

Applicant Ms Lea Moon

Respondent Tulsense Ltd

Hearing Date: 28 November 2007

**Appearances for
The Applicant Ms Lea Moon**

**Appearances for
The Respondent None**

**Leasehold Valuation Tribunal: Ms. M W Daley (LLB Hons)
Mr. T Sennett ()
Mrs. R.L Turner**

The Application

1. The Applicant seeks a determination of the Reasonableness of the service charges and their liability to pay the charges for the years 2003, 2004, 2006 and 2007.
2. At the pre-trial review on the 11 September 2007, the Tribunal identified the following issues:-
 - (a) Insurance Premiums (including terrorism cover) 2004-2007
 - (b) The Service charges for Roof works in 2003 and 2004
 - (c) Whether the relevant consultation procedures under section 20 of the Landlord and Tenant Act applied, and whether they had been complied with in respect of the 2004 roof works.
 - (d) Whether the amounts claimed for service charges in respect of (a) and (b) were reasonable.
 - (e) The Applicant's application under section 20 (c) of the Landlord and Tenant Act 1985

The Documents received by the Tribunal

- (f) The Tribunal were provided with a copy of a joint hearing bundle.

The Law

3. Section 27A (3) Landlord and Tenant Act 1985 provides that
An application may be made to a leasehold valuation Tribunal for a determination whether if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to –
the person by whom it would be payable,
the person to whom it would be payable,
the amount which would be payable,
the date at or by which it would be payable, and
the manner in which it would be payable.

S. 18 of the Act defines service charge as

“(1)...service charge means an amount payable by a tenant...as part of or in addition to the rent –

which is payable, directly or indirectly, for services, repairs, maintenance or insurance or the landlord’s costs of management, and the whole or part of which varies or may vary according to the relevant costs.

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connections with matters for which the service charge is payable...”

Section 19 of the Act provides for the limitation of service charges on the grounds of reasonableness as follows:

Relevant costs shall be taken into account in determining the amount of a service charge payable for a period

only to the extent that they are reasonably incurred, and

where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard; and the amount payable shall be limited accordingly.

Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

An agreement by the tenant of a flat (other than an arbitration agreement within the meaning of section 32 of the Arbitration Act 1950) is void in so far as it purports to provide for a determination in a particular manner, or on particular evidence, of any question—

whether costs incurred for services, repairs, maintenance, insurance or management were reasonably incurred

whether services or works for which costs were incurred are of a reasonable standard,

or

whether an amount payable before costs are incurred is reasonable

Section 20 B

(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection(2)), the tenant shall not be liable to pay so much of the service charge as reflects the cost so incurred.

The Lease

- (a) The Applicant provided the Tribunal with a copy of the original lease, which was at pages 37-52 of the hearing bundle. Where terms of the lease are referred to they are set out below.

Description of the property and Inspection

4. The premises were a third floor flat, situated within a converted Victorian House which contained 3 flats.
5. The Respondent had written to the Tribunal to inform the Tribunal that the respondent would not be appearing, and would not be represented, and that the Respondent wished the tribunal to consider the statement of case in reply at pages 33-36 of the hearing bundle.
6. The Applicant identified the issues to the Tribunal as follows:-
 - (i) In July 2002, the applicant had suffered from water penetration at her flat, as a result of this she had contacted the Respondents agents WBR Management to ask for works to be carried out . This is set out in a letter at page 53 of the bundle. The Applicant was aware of builders attending the property in August 2002. In her written statement to the Tribunal, at page 21, she stated that she was under the impression that they were preparing a quote for the roof works as they only stayed at

the property for 2 hours, and the only equipment they appeared to have was a ladder.

- (ii) On 13 of August the Applicant received a letter from WBR Management which stated that the roof had been fixed.
- (iii) In February 2003, the Applicant received a demand for £713.30(page 11 of the bundle) which included a contribution to roof works. This contribution was based on a copy of an invoice from Gem builders. This was set out at page 54 of the hearing bundle. The invoice was in the sum of £624.58
- (iv) The Applicant stated that she was dissatisfied about this as she did not receive any details concerning the work which had been carried out. The Applicant had also experienced further problems with the roof, as leaks begun to re-occur in October 2002. The leaks occurred in the same area as the previously reported works.
- (v) It was accepted by the Respondent that further complaints were made by the Applicant concerning water penetration at her flat. And further work was carried out to the roof by Garwood builders.
- (vi) On 4 February 2005 the Applicant was invoiced by way of a service charge demand for the further roof works carried out by Garwood builders. This was in the sum of £659.57. This was for works which had been carried out by Garwood builders in January/February 2003 and incurred by the Respondent at this time.
- (vii) The Applicant's complaint concerning this was that she had not been consulted in accordance with section 20 of the Landlord and Tenant Act 1985. She also considered that the works were not carried out properly, and that the builders were unsupervised.
- (viii) The Applicant also complained about the cost of the building insurance. Her complaint concerning this was set out at page 25, (page 6 of her statement of case) She stated that she had been charged £458.40 for 2004, £536.87 for 2005, £566.63 for 2006, and £594.58 for 2007. The Applicant had obtained quotations for building insurance which were at pages 82-91 of the bundle and ranged from

£497.50- to£1067.07. The highest quote was from Norwich union. Which was the same insurance provider as that used by the Respondent.

- (ix) The Applicant had also been charged for cover for Terrorism for 2003 and 2004. The Applicant was not satisfied that this was reasonable, as despite her request she had not received any information to substantiate that this was not included as part of the insurance.
- (x) The Applicant also asked the Tribunal to consider her application under section 20 C of the landlord and tenant act 1985. The Applicant stated in her statement of case.-: *"I have been forced into these proceedings as a matter of last resort. Had WBR made any effort whatsoever to discuss these problems with me or come to a settlement over them, such proceedings would not be necessary..."*
- (xi) The Tribunal were also asked to considered reimbursing the Applicant's fees as set out in section 10 of the directions of the Tribunal on the 11 September 2007.

7. The Respondent's statement of case was set out at page 31-33 of the bundle. The Respondent stated that GEM builder had carried out work to the box gutters and as no further water ingress occurred for 3 months, they assumed that the work was satisfactory.
8. Following a complaint of further water ingress from Ms Moon The builders were requested to ascertain the cause of the water penetration that occurred in the Autumn of 2002. However they declined to do so. The Respondent's agent engaged further builders. The Landlord provided photographs of before and after the work was carried out . The Respondent did not respond to the section 20 consultation issue, and merely cited that the work was reasonable.
9. In respect of the building insurance they stated that they had contacted Crystal Insurance Broker for a quotation, and the Broker had declined cover. (The Respondent stated that this was because they did not have the names of all of the residents) In response to this the Applicant stated that this information could have been obtained from the Landlord.

10. The Agents provided information concerning the Terrorism cover. The applicant stated that the policy numbers were the same as the insurance certificate and in the case of 2004, the cover was for only seven months.

The Decision of the Tribunal

11. The Tribunal have in reaching its decision considered the evidence provided by the Applicant and the Respondent. The Respondent did not appear, and whilst the Tribunal have considered the statement of case, the Tribunal have not had the opportunity to test the evidence, accordingly the Tribunal have had to consider the appropriate weight to give to this evidence and have decided that on a balance of probabilities the Tribunal prefer the evidence given by the Applicant.
12. The Tribunal find that the work carried out by Gem Builders was not carried out to a reasonable standard. In determining this, the Tribunal have carefully considered the invoice. The Tribunal note that no description was given of the repair that was affected or of the material used. The Respondent's agents did not ask for an estimate before the work was carried out. The Applicant gave evidence that GEM builders were on site for a very short period of time, and that she believed they were attending to an estimate, rather than effecting repairs.
13. The Applicant produced evidence from the Met office that there had been a low level of rainfall in September and October, and the Tribunal have determined that this, rather than the efficacious nature of the work was the reason that no water penetration occurred in the intervening period.
14. The Tribunal are not satisfied as to the nature, or standard of work, and for this reason consider that the sum of £208.20 for the Applicant's building works is not recoverable.
15. The Tribunal determine that in respect of the demand for the work carried out by Garwood Builders in January/February 2003. The demand was dated 4th February 2005 for cost incurred made more than 18 months after the work was carried out. The Tribunal have not received any evidence that a section 20 B notice was served, informing the applicant that a demand would be made. The Tribunal find that in accordance with section 20 B, the Applicant is not liable to contribute to the cost of this work.

16. The Tribunal also find that the Applicant was not consulted in accordance with section 20 of the Landlord and Tenant Act 1985.
17. The Tribunal also find that the cost of insurance was not reasonable for the period 2003-2007. The Tribunal make this finding based on its own knowledge and experience as an expert tribunal and on the evidence provided to the Tribunal by the applicant.
18. The Tribunal find that the sum of £1067.07 set out in the quotation for insurance (from Norwich Union provided at page 89) is the maximum insurance that the Tribunal consider reasonable for insurance for 2007. The Applicants contribution is therefore limited to £356 for 2007.
19. The Tribunal have used this figure for the proceeding years, and have reduced the cost by 5% to allow for inflation and the lower level of rebuilding cover required. The Tribunal therefore determine that the following amounts are reasonably payable by the Applicant for insurance
 - (a) For the period 2003-£290
 - (b) For the period 2004-£305
 - (c) For the period 2005-£320
 - (d) For the period 2006- £340
19. The Tribunal also consider that the insurance provided, in the absence of further evidence from the Respondent should be taken to include cover for terrorism and that no additional charge should be made for this amount.
20. The Tribunal consider that given the findings of the Tribunal, the section 20C Application should in all of the circumstance be granted, and that the Applicant fees for making the application to the Tribunal in the sum of £250 should be reimbursed.

Chair.....

Dated 28-11-07