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Ref: LON/00AH/LSC/2007/0140

LEASEHOLD VALUATION TRIBUNAL

LONDON RENT ASSESSMENT PANEL

**DECISION ON AN APPLICATION UNDER SECTION 27A OF THE LANDLORD
AND TENANT ACT 1985 (AS AMENDED)**

Property: 21 Lincoln Close, Woodside Green, London SE25 5ET
Applicant: The Halliard Property Co. Limited
Respondent: Mr D Rodney
Application Date: Transferred from Croydon County Court by Order dated 18th April
2007
Date of Oral Pre-
Trial Review: 25th April 2007

Members of Tribunal

Mr P Korn (chairman)
Mr C White
Mr D Wills

INTRODUCTION

1. This is an application under Section 27A of the Landlord and Tenant Act 1985 (as amended) (the "1985 Act") for a determination of liability to pay service charges.
2. The application arises out of a Claim for recovery of service charge and interest dated 23rd October 2006 (Claim Number 6C102706) made by the Applicant to Chichester County Court. By an Order dated 13th April 2007, the Croydon County Court (to whom the case had been transferred by the Chichester County Court) transferred to the Leasehold Valuation Tribunal the issue of determining the reasonableness of the service charge raised.

3. On 26th April 2007 the Leasehold Valuation Tribunal directed that the application be allocated in the first instance to the paper track and neither party has since requested an oral hearing.

THE ISSUES

4. The Applicant seeks a determination of the Respondent's liability to pay service charges under section 27A of the 1985 Act. Although the claim was originally for £1,654.31, £1,201.63 of this sum appears since to have been admitted, leaving only £452.68 in dispute.
5. Amongst the papers is a copy letter from the Applicant to the Respondent dated 27th July 2006 attaching a statement of service expenditure for the year ended 31st March 2006 and calculating the proportion payable by the Respondent as £852.68 less £400 "already charged", leaving a total of £452.68 payable, this being the amount currently in dispute.
6. Within the bundle is a copy of a lease of the Property dated 2nd February 1998 and made between the Applicant (1) and HR Butler (2). It is assumed that the lease was subsequently transferred to the Respondent.
7. The lease entitles the landlord to recover from the tenant a due proportion of the cost of providing the services that the landlord covenants to provide. The Respondent has not disputed the Applicant's right under the lease to recover the cost of providing the services listed in the Applicant's letter of 27th July 2006. Instead, the Respondent's defence dated 14th January 2007 states that the Property has not been maintained in a manner which justifies the amount charged.
8. The Respondent accepts that some work has been carried out (for example in the garden area) but claims that the state of the internal communal areas is unacceptable. The Tribunal has seen a CD of photos apparently taken by the Respondent in the different communal hallways, and it has also seen copies of letters from other leaseholders in support of the Respondent's defence. The Respondent also makes a general complaint about the way in which maintenance funds have been spent, although he has not brought any specific evidence to support this general complaint and therefore the Tribunal does not find this general complaint to have been proven.

THE LAW

9. Section 19(1) of the 1985 Act provides:

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

- (a) only to the extent that they are reasonably incurred, and

- (b) 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 shall be limited accordingly.”

10. “Relevant costs” are defined in Section 18(2) of the 1985 Act as “the costs or estimated costs incurred or to be incurred by or on behalf of the landlord...in connection with the matters for which the service charge is payable”.

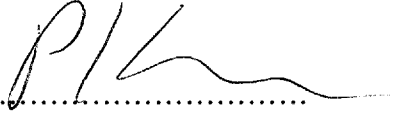
“Service charge” is defined in Section 18(1) of the 1985 Act as “an amount payable by a tenant of a dwelling as part of or in addition to the rent (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements, or insurance or the landlord’s cost of management, and (b) the whole or part of which varies or may vary according to the relevant costs”.

APPLICATION OF LAW TO FACTS

11. Looking at the Applicant’s statement of expenditure, it seems to the Tribunal that no more than two of the items could possibly relate to maintenance of internal communal areas. As the Respondent’s specific complaints are confined to the state of the internal communal areas, it follows that he is not in practice disputing any of the other items.
12. The two items which could possibly be said to relate to internal communal area maintenance are “re-rendering and applying masonry paint to bay apron beneath window” and “re-rendering and making good stairwells and repairing side plinths, including painting”. However, even to the extent that these do relate to the **internal** communal areas (and they may well not do so), the Respondent has not argued that these particular works were not carried out. Furthermore, the Respondent has not given the Tribunal sufficient information on which the Tribunal could even try to make an apportionment as between works which have been carried out satisfactorily and works which have not. In any event, even if the Tribunal were to disallow the whole of these two items of expenditure, the Respondent’s share of the aggregate of these items only amounts to about £40.
13. It may be that the Respondent has a legitimate complaint about the state of the internal communal areas. However, the statement of expenditure which is the subject of the current dispute contains either no charge or almost no charge for works to these areas. Therefore, in the absence of sufficient evidence to decide otherwise, the Tribunal determines that the amounts charged by the Applicant are reasonable. If the Respondent feels that the Applicant is in breach of its responsibilities under the lease then he should pursue the appropriate remedy.

DETERMINATION

14. The Tribunal determines that, in the absence of sufficient evidence to the contrary having been supplied by the Respondent, the amount of service charge demanded by the Applicant in its letter of 27th July 2006 was reasonable and that therefore the amount of £452.68 stated to be outstanding is properly payable.
15. The Respondent has made no application for an order under Section 20C of the 1985 Act that the Applicant should not be allowed to recover its costs in connection with the proceedings before this Tribunal from the Respondent under the lease (to the extent, if at all, that they are recoverable as a matter of construction of the lease itself). In any event, as the Tribunal has found in favour of the Applicant it is not minded to make such an order.
16. No other cost applications were made.

CHAIRMAN.....
Mr P Korn

Date: 20th July 2007

**40 Wykeham Road, London NW4 2SU
(Daytime Tel: 020 7692 5864)**

Caroline Stone
Case Officer
London Rent Assessment Panel
10 Alfred Place
London WC1E 7LR

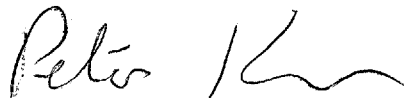
20th July 2007

Dear Caroline

21 Lincoln Close, Woodside Green, London SE25 (Ref: LON/00AH/LSC/2007/0140)

I enclose the Decision of the Tribunal on the above case, which was processed on the paper track.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Korn', with a stylized flourish at the end.

Peter Korn
Lawyer Chairman