

Southern Rent Assessment Panel and Leasehold Valuation Tribunal

Case No.CHI/21UC/LSC/2008/0018

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
UNDER Section 27A of the LANDLORD AND TENANT ACT 1985**

Property: Flat 8, Bourne Mews, Bourne Street,
Eastbourne, East Sussex, BN21 3SG

Applicant: Mr K Palmer (landlord)

Respondent: Mr J Newman (tenant)

Appearances: For the Applicant:
Mr A Gray, solicitor, of Stephen Rimmer & Co

For the Respondent:
No attendance

Application: 19 February 2008

Directions: 27 February 2008

Hearings: 24 May & 24 June 2008

Decision: 03 September 2008

Members of the Leasehold Valuation Tribunal

Ms J A Talbot MA
Mr R Athow FRICS
Mr T Wakelin

Summary of decision

Service charges of £1,200 for the period 24 June 2006 to 31 December 2007 are payable forthwith by Mr Newman to Mr Palmer.

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Flat 8 Bourne Mews, Bourne Street, Eastbourne, East Sussex BN21 3SG

Application

1. This was an application made by Mr K Palmer (landlord) on 19/02/2008 pursuant to Section 27A of the Landlord and Tenant Act 1985 ("The Act") for a determination of the liability of Mr J Newman (tenant) to pay service charges of £1,200.
2. Directions were issued on 27 February 2008. The Applicant, through his solicitors Stephen Rimmer & Co, complied with those Directions but the Respondent, Mr Newman, did not, and indeed has not in any way responded to this application.

Jurisdiction

3. The Tribunal has power under Section 27A of the Act to determine whether a service charge is payable, and if so, the person by whom and to whom it is payable, the amount, and the time and manner in which it is payable. Under Section 19 of the Act the Tribunal must also consider whether the service charges in dispute have been reasonably incurred and whether the works or services to which they relate are of a reasonable standard.

Lease

4. The Tribunal had a copy of the lease of Flat 8 Bourne Mews. The lease is dated 19 April 1992 between Kim Werner Palmer (the lessor and applicant) and Elizabeth Feltham (the original lessee) and is for a term of 999 years from 24 June 1992 at a ground rent of £75 per year. Mr Newman is the current lessee.
5. The lessee's obligation to pay service charges is to be found at Clause 4(4) and is "to pay the Interim Charge and the Service Charge at the times and in the manner provided in the Fifth Schedule". That Schedule provides that the lessee's proportion is 1/15 of the lessor's total expenditure incurred in carrying out its maintenance and repairing obligations; however, in practice the actual proportion charged by the lessor is 1/23. The lessee is required to pay the Interim Charge "by equal instalments in advance on 24 June and 25 December each year with any excess to be paid after service of a certificate of account.

Inspection

6. The members of the Tribunal inspected the property before the hearing accompanied by Mr Gray. They were unable to gain access and therefore carried out an external inspection only. It comprised a two bedroom flat in a modern purpose built block with parking spaces and a lawned area to the rear, situated in a residential area near Eastbourne town centre. Externally the property was in good order.

Hearing

7. The matter first came before the tribunal on 23/05/2008. After hearing from Mr Gray, solicitor for the Applicant, the tribunal adjourned the hearing for further evidence and documents to be produced. This was duly done and a supplemental Statement of Case was provided by Mr Gray. A further hearing took place in Eastbourne on 24 June 2008 attended by Mr Gray representing the applicant. Mr Newman did not attend and was not represented.
8. Mr Newman is the registered leasehold proprietor of the property. The landlord is Mr Palmer who also runs Mersell Management, a property management company. Mr Gray submitted

that Mr Newman last paid service charges of £630, demanded in December 2005. A Statement of account shows that these payments were credited on 03/04/2006.

9. Mr Gray submitted that further interim service charge demands were served by Mr Palmer on Mr Newman, each for £300, on 23/06/2006, 23/12/2006, 23/06/2007, and 23/12/2007, totaling £1,200 and covering the period 24 June 2006 to 24 June 2008. Copies of these demands were produced to the tribunal. They were headed up as Invoices from Mersell Management and an address for payment was given. Mr Newman had not paid these interim service charges or responded in any way. However there was no evidence to suggest that he was no longer in occupation.
10. Mr Gray submitted that the service charge demands were valid and in accordance with the lease. They complied with the requirements of Sections 46-48 of the Landlord and Tenant Act 1987 in that they contained the name of the landlord's managing agent and an address for service. The tribunal also noted that further correspondence to Mr Newman about the arrears, such as a letter dated 12/08/2007, was from Mr Palmer himself who is both the landlord and the managing agent.
11. Also produced to the tribunal were copies of the certified annual service charge accounts for the accounting years ending 31 December 2006 and 2007 showing total expenditure for those years at £10,862 and £13,740 respectively. Mr Newman has not queried any of the landlord's expenditure.
12. Finally Mr Gray submitted that the service charge demands were accompanied by a Summary of the tenant's rights and responsibilities, as required by Section 153 of the Commonhold and Leasehold Reform Act 2002, and a copy of the Summary was produced.

Decision

13. The tribunal accepted the evidence and submissions put forward by Mr Gray on behalf of the landlord. There were no submissions or evidence to the contrary from Mr Newman and no explanation as to why he had seemingly ignored all the demands and correspondence since June 2006. He has not queried any of the service charges or landlord's expenditure.
14. The tribunal concluded that the interim service charges had been validly demanded in accordance with the lease terms and statutory requirements and were thus lawfully due from Mr Newman.
15. The tribunal therefore determines that service charges of £1,200 are payable forthwith by Mr Newman to Mr Palmer.

Dated 3 September 2008

**Signed
Ms J A Talbot MA
Chairman**