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**Residential  
Property**  
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
LEASEHOLD VALUATION TRIBUNAL for the  
LONDON RENT ASSESSMENT PANEL  
LANDLORD AND TENANT ACT 1985**

**LON/00AZ/LSC/2008/0022**

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**Premises:** 41A Carholme Road  
Forest Hill  
London SE23 2HT

**Applicants:** Mr J Vaughan  
Ms E O'Rourke

**Respondent:** Mr SS Arwal

**Tribunal:** Mr NK Nicol  
Mr J Reed FRICS

**Date of Decision:** 19/03/08

## **REASONS FOR DETERMINATION**

1. The Applicants are the lessees of the subject property and the Respondent is the current lessor. The Applicants have a short query in respect of the service charges levied by the Respondent. They have discovered that the buildings insurance obtained by the Respondent from AXA includes employers' liability insurance. They took advice from the Leasehold Advisory Service and now challenge their liability for the insurance premium on the basis that it includes an element which is not payable under the terms of their lease. In accordance with the Tribunal's directions, this determination has been made without a hearing on the basis of the helpful written submissions sent in by each party.
2. Clause 1 of their lease requires the Applicants to pay,  
by way of further rent a fair proportion of the sum or sums which the Lessor shall from time to time pay by way of premiums ... for keeping the premises of which the demised premises form part insured against loss or damage by fire and such other risks as the Lessor may from time to time consider appropriate under the Lessor's covenant on that behalf hereinafter contained ...
3. Clause 5(2) provides that the Lessor must,  
Keep the demised premises insured in its full re-instatement value against loss or damage by fire and such other perils as the Lessor may from time to time consider appropriate ...
4. These clauses clearly provide for the Respondent to insure the building and for the Applicants to reimburse him their share of the cost of the premiums. However, the Tribunal cannot see in these clauses or any other provision of the lease an ability to charge for employers' liability insurance. In fact, the Respondent does not assert that but merely that it might be useful in the possible future event that he were to employ someone at the building.
5. Having said that, AXA have confirmed in an e-mail sent on 6<sup>th</sup> February 2008 that the employers' liability cover has been included in the buildings insurance at no extra charge. The Applicants have obtained quotes from other insurers which show that such cover can be obtained separately but that, if included, it can increase the premium significantly. However, the Applicants' evidence is

insufficient to contradict AXA's own clear statement. There is no reason to disbelieve them when they say there was no extra charge.

6. This means that, while the Respondent would appear to have no power to charge the Applicants for employers' liability insurance, this application must be dismissed because no such charge has actually been levied. The buildings insurance happens to include it but the premium is no higher as a result. Therefore, the service charges derived from the buildings insurance premiums are payable in full for each of the years from 2004 to 2008 which the Applicants sought to challenge.
7. There would appear to be no power under the lease for the Respondent to charge the Applicants for any costs incurred in these proceedings. Therefore, the Tribunal makes no order under s.20C of the Landlord and Tenant Act 1985.

Chairman.....

*N.K. Nicol*

Date 19<sup>th</sup> March 2008