

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
LEASEHOLD VALUATION TRIBUNAL**

Property : 13 Balliol Drive
Didcot
Oxfordshire
OX11 9RH

Applicant : Baylencroft Limited

Respondents : Ilana Al-Irimi
Ian Phillip Clark

Case number : CAM/38UD/LBC/2009/0002

Date of Application : 12th March 2009

Type of Application : For a determination under Section 168(4)
Commonhold and Leasehold Reform Act
2002 that the Respondent is in breach of
a covenant or condition in a lease

Date of Directions : 27th March 2009

Date of Hearing : 24th July 2009

Hearing Venue : Kingswell Hotel
Reading Road
Didcot
Oxfordshire
OX11 0LZ

Tribunal : Joanne Oxlade Lawyer Chairman
Sarah Redmond MRICS Valuer Member
John Dinwiddy FRICS Valuer Member

DECISION AND REASONS

DECISION

For the reasons given below, we make a determination that there is no breach of covenant as alleged in the application.


7. Entry was not gained to the subject premises, but a neighbour informed the Tribunal that a gentlemen with a disability lived in the flat, that she had seen letters arrive at the premises for the respondents - but which remained uncollected by them and were cleaned away by the cleaners - that she believed that the gentleman occupying the premises did so as a tenant of South Oxfordshire Housing Association (SOHA).
8. Neither party attended the hearing. In light of the information provided by the neighbour, we are not satisfied that the respondents were aware of the hearing.

Findings

9. The Applicant has wholly failed to establish their case:
 - (a) they have failed to establish that the named respondents were parties to the lease during the period that it is said that service charges have been unpaid
 - (b) they have failed to establish who was entitled to demand payment of service charges
 - (c) they have failed to establish that the service charges were properly demanded in accordance with the provisions of the lease and section 21B of the 1985 Act
 - (d) to endorse the statement accompanying the application with a declaration of its truth.
10. The finding sought by the Applicant is a precursor to forfeiture, and we find it disturbing that the Applicant's approach to such matters is so casual.
11. It is self-evident that had the Applicant complied with paragraph 1 of the Directions then at the very least they would have established whether or not the respondents were the proper party.
12. It is regrettable that the Tribunal has no power to make an order for the Applicant to discharge the wasted costs of the Tribunal.

Conclusion

13. For the reasons above we conclude that the Applicant has failed to establish that these Respondents are in breach of covenant, as alleged.

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pp **Joanne Oxlade**
Chairman

28th July 2009