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RESIDENTIAL PROPERTY TRIBUNAL SERVICE

**LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL**

LANDLORD AND TENANT ACT 1985 SECTION 27A

LON/003E/LAC/2010/0027

Premises: Basement Flat, 158 Southwark Bridge Road,
London SE1 0DG

Applicant: Mr Keith Reed

Respondent: Mr T Ahmad

Represented by

**Date of Paper
Determination:** 10 November 2010

Tribunal: Ms M Daley LLB (Hons)
Mr D Jagger MRICS

Date of decision: 10 November 2010

Background

- (a) The property, which is the subject of this application, is a two bed-roomed basement flat, which is part of a Victorian conversation.

- (b) The Applicant is the leaseholder of the premises.
- (c) 31 August 2010 an Application was made to the Leasehold Valuation Tribunal for a determination of the Reasonableness and liability to pay an administration charge (Schedule 11 of the Common hold and Leasehold Reform Act 2002).
- (d) A pre-trial review was held on 9 September 2010 the Tribunal identified the following issues to be determined namely the payability and reasonableness of the following administration charges 1. A premium and other fees and conditions for the grant of retrospective consent for the removal of a partition wall and the installation of pvcu double-glazed windows in the flat.
- (e) The Directions provided that the application was to proceed without a hearing unless either the Applicant or the Respondent makes a written request to be heard before the determination. In the event of neither party applying for a hearing, the matter was listed to be determined in the week beginning 8 November 2010.

The Law

Schedule 11 of the Commonhold and Leasehold Reform Act 2002

States:-

Para 1

- (1) In this Part of this Schedule "administration charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—
 - (a) for or in connection with the grant of approvals under his lease, or applications for such approvals,
 - (b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
 - (c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
 - (f) in connection with a breach (or alleged breach) of a covenant or condition in his lease.

Para 2

A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

Para 5

- (1) An application may be made to a leasehold valuation tribunal for a determination whether an administration charge is payable and, if it is, as to—
 - (a) the person by whom it is payable,
 - (b) the person to whom it is payable,
 - (c) the amount which is payable,
 - (d) the date at or by which it is payable, and
 - (e) the manner in which it is payable.

The Paper Determination

1. The Applicant relied upon an undated statement filed with the hearing bundle. In his statement he stated that he had purchased the property in February 2000 and that as soon as he moved in he removed the partition wall (which was highlighted in the plan, this was followed with work to replace the front bay window with a double glazed unit, which he stated had the same outline as the original vertical sashes, this was followed by further window replacement work to the remaining windows and backdoor (this work took place in February 2002).
2. In his statement the applicant highlighted the fact that the respondent has subsequently visited the property on a number of occasions for various reasons without mentioning either of the alterations. The issue concerning the unauthorised alterations first arose in relation to a planned sale of the leasehold interest in the premises. In reply to the purchaser's inquires the Landlord agents noted that no consent was given for the change of the windows and the alterations carried out on the flat.
3. This was later followed up by a letter dated 16 July 2010 from Solicitors First in which, the solicitor stated that "*we understand that certain alterations have been carried out to the property without the freeholders consent which is required under the terms of the lease we are instructed that it has been agreed that retrospective consent will be granted...*"
4. The letter proposed payment of a premium of £5000, payment of the costs of new lease plans in the sum of £475, the Respondent's surveyor fees in the sum of £500 plus Vat together with an increase in the ground rent in the sum of

£320 pa and an amendment to the lease to provide a notice of assignment and charge and a reasonable registration fee of £150 in respect of each notice. In a reply dated 27 July 2010 sent by the Applicant's solicitor Rochman Landau LLP. The Applicant confirmed that he objected to the premium proposed on the grounds that it was excessive and that it would cost only a fraction of that sum to reinstate the partition. The Applicant's Solicitor as confirmed that the local authority London Borough of Southwark had granted a Regularisation Certificate. The Applicant made a counter- offer in the sum of £750.

5. The Applicant was prepared to agree the charges of £475 for the new lease plan, and was also prepared to pay a reasonable sum for surveyors' fees (less than the £500 proposed) and a reasonable sum for the solicitors cost for the grant of retrospective consent.
6. The letter concluded by stating that if the proposals could not be agreed the partition wall would be reinstated.
7. In his statement to the Tribunal Mr Ahmad relies upon clauses 3(1) and clause 3(v) (which in the Tribunal's view is the relevant clause) and page 6 of the lease (iii) which provides Not without the licence in writing of the lessor (such licence not to be unreasonably withheld) to make or suffer to be made any addition or alteration to the structure of the demised premises or to cut maim alter or injure any of the timber or walls thereof..."

The decision of the Tribunal

8. The Tribunal noted that there was no specific provision in the lease for a payment of a licence rather clause 3 V stated -: "*...Not to do or omit or suffer to be done or omitted (as the case may be) by the Town and Country Planning Act 1971 or any Acts for the time being in force amending or replacing the same or which shall be contravene the provisions of the said Acts or any of them and at all times hereafter to indemnify and keep indemnified the Lessor from and against all actions proceedings costs expenses claims and demands in respect of any such act matter or thing done or omitted by or on behalf of the Lessee which shall contravene the said provisions of the said Act or any of them as aforesaid.*'
9. This clause implies that the purpose of an administration fee should be to reimburse the landlord, given this we find that the following sums are reasonable and payable.

10. **The Premium-** We are not satisfied that the sum of £5000 claimed is reasonable and payable, in coming to this view we have considered the plan and have noted that the wall is non load bearing and is a limited partition wall located in a single storey rear extension to the original Victorian House. We note that the building regulation situation has been regularised and given this find that the sum of £750, which would effectively provide for reinstated properly represents the cost payable to the Respondent.
11. **Payment of the costs of new lease plans -** The Tribunal noted that the sum of £475, had been agreed by the Applicant and we accept this sum as reasonable and payable.
12. **Surveyor fees-** the sum proposed for this item was £500 plus Vat. The Tribunal noted that the main objection appeared to be to the removal of the partition wall and there was limited if any objection to the window, given this we consider that any inspection would be limited, and that a reasonable cost of such an inspection should in our view not exceed £250 plus Vat. **We find that the sum of £250 plus Vat is reasonable and payable.**
13. **Ground rent in the sum of £320-** The Tribunal have no jurisdiction to consider this matter, which would in our view necessitate a deed of variation to be affected. We therefore make no finding on this sum.
14. **Amendment to the lease in the sum of £150.** The Tribunal are not satisfied that this charge is an administration charge or covered by clause 3(v) of the lease, given this we do not consider this charge to be reasonable and payable.
15. **The Solicitors Fees-** The Tribunal find that the sum of £750 is not unreasonable subject to sight if necessary of a schedule of cost setting out how this sum has been incurred
16. The Tribunal find the sum of-
 - £750 for the premium**
 - £475 for the Lease plan**
 - £250 plus Vat for the surveyor's fees**
 - Up to £750 for solicitor's fees (on prove of cost) is reasonable and payable**
17. The Applicant has made no application under section 20 C of the Landlord and Tenant Act 1985 should the Applicant wish to seek such an order. Then an

Application in writing shall be made within 14 days of the date of this decision.

CHAIRMAN.....*M. W. Kelly*.....

DATE.....10-11-2010.....