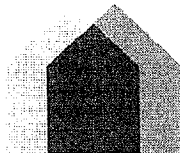


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Residential
Property
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

**DECISION ON AN APPLICATION UNDER SECTION 27A LANDLORD AND
TENANT ACT 1985**

Ref : LON/00AR/LSC/2010/0095

Property: 155 Southend Arterial Road, Hornchurch, Essex RM11 2SF

Applicants: Mr & Mrs K Corrick

Respondents: Martin Vincent Symons and Susan Merryl Wreford, Trustees of the EJ Wreford Will Trust

Decision date: 24th May 2010

Tribunal: Mr P Korn (Chairman)
Mr I Thompson BSc FRICS

BACKGROUND

1. The Applicants are the leaseholders of the Property and the Respondents are the landlords.
2. On 6th February 2010 the Applicants made an application under Section 27A Landlord and Tenant Act 1985 (the "1985 Act") for a determination of liability to pay and reasonableness of service charges.
3. The specific issue raised in the application was the level of insurance premium payable from the 2003/2004 service charge year through to the 2009/2010 service charge year.

4. A Pre-Trial Review took place on 17th March 2010, at which it was agreed that the dispute would be limited to the years 2007/2008 onwards on the basis that the Applicants would not realistically be able to produce any relevant evidence of insurance premiums for any earlier years.
5. The premium for 2007/2008 appears to have been either £324.10 or £319.10, the premium for an extended 18 month insurance year in 2008/2009 appears to have been £460.84, and the premium for 2009/2010 appears to be £281.16, but the information provided by both parties (particularly the Respondents) on these basic points is somewhat unclear.
6. The parties agreed at the Pre-Trial Review that the matter could be determined by the Tribunal on the basis of the papers alone without an oral hearing and without an inspection of the Property.

THE APPLICANTS' CASE

7. The Applicants have provided a certain amount of background information to the dispute. This background information and the Applicants' feelings of frustration are noted, although it should be pointed out that not all of the issues raised are directly relevant to the reasonableness or otherwise of the level of insurance premiums.
8. The Applicants state in their statement of case that they consider the rebuild value of the Property contained in the insurance policy to be an overestimation. As at November 2008 the sum insured for the Property and the adjoining maisonette (153 Southend Arterial Road) was £255,000, yet the Applicants were advised on the telephone by a surveyor/valuer named Mr Steve Cockran of P.G. Ashton and Sons that a more appropriate amount for the two maisonettes would be £170,000.
9. The Applicants have supplied details of a number of alternative insurance quotations obtained by them. These include comparative quotations from 'tescocompare.com' dated 1st September 2008 ranging from £93.45 to £539.79 and comparative quotations from 'confused.com' dated 19th March 2010 ranging from £107.83 to £391.06. There is also a quotation from Prudential Home Insurance dated 28th March 2010 for £168.00, one from Churchill Insurance (also dated 28th March 2010) for £149.10, one from Direct Line dated 5th May 2010 for £133.35 and one from Virgin Money (also dated 5th May 2010) for £198.45.

THE RESPONDENTS' RESPONSE

10. The Respondents state that their insurance brokers were minded to switch to a block policy for the 2007/2008 year on the basis that this would be cheaper but that not all leaseholders were in favour and the

Applicants themselves favoured a policy that would just cover the Property and the neighbouring upstairs property rather than a block policy. In the absence of agreement on this point the brokers had no choice but to go ahead and renew the policy with Norwich Union at a premium for the Property of £319.10.

11. According to the Respondents an approach was made to Norwich Union asking it to reduce its rates but Norwich Union refused to do so. They therefore felt that they should move to a different insurer, but this was not a straightforward process as different properties had different insurance start dates and therefore synchronising the policies was difficult. Due to a continuing lack of agreement the Respondents decided to insure pairs of maisonettes, having taken advice from their broker that even pairing up maisonettes would achieve a saving. The new policy was intended to be put in place by 1st June 2008 but it was not actually put in place until 1st August due to practical difficulties and this resulted in an additional premium of £55.49 becoming payable.
12. The new policy was taken out with N.I.G. and was cheaper than the amount being charged by Norwich Union. In 2009 the brokers re-checked the market, found that N.I.G. were still offering a competitive premium and therefore recommended that the policy be continued with N.I.G.
13. Specifically as regards the concerns expressed about the rebuild value, the figure chosen by the brokers was based on the most recent reinstatement value required by a lender.
14. Regarding the alternative quotations obtained by the Applicants, the Respondents do not consider these to be comparable. They are homeowner policies, not commercial policies, and do not cover both 153 and 155 Southend Arterial Road. The quotations also do not contain the full details of the relevant policies and therefore it is difficult to know whether they are based on the same conditions and assumptions.
15. The Respondents have also stated that they do not receive commission.

THE LAW

16. Under Section 18 of the 1985 Act “service charge” is defined as “an amount payable by a tenant ... as part of or in addition to the rent ... payable for services repairs, maintenance, improvements or insurance or the landlord’s costs of management, and the whole or part of which varies or may vary according to the relevant costs”. “Relevant costs” are defined 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”.

17. Under Section 19(1) of the 1985 Act, "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 work, only if the service or works are of a reasonable standard".
18. Under Section 19(2) of the 1985 Act, "where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise".

APPLICATION OF LAW TO FACTS

19. Save in obvious cases, demonstrating that insurance premiums have not been reasonably incurred is not an easy matter. Landlords are under no obligation simply to obtain insurance cover at the cheapest price available, and there are often detailed reasons why alternative quotations obtained by leaseholders are not genuinely comparable and/or why it is reasonable for a landlord to have obtained insurance cover on a particular basis.
20. In this case the Tribunal is impeded in its analysis by there being some confusion as to how much the insurance premium actually is for each service charge year. It has also not been helped by the slightly confused way in which both parties have presented their written submissions (and there has been no oral hearing at which to seek clarification).
21. On the issue of the rebuild value of the Property, the Applicants' evidence is essentially that a surveyor/valuer has told them on the telephone that the rebuild value seems high. With respect, this is not very compelling evidence. There is no written record of this evidence, no information as to whether it was based on all pertinent facts and no opportunity for the Respondents or the Tribunal to probe into its reliability. The Respondents' evidence is that this was the value required by a specific lender. Whilst the Tribunal acknowledges that the Respondents have not **proved** that this is the case, nevertheless it is a plausible statement and the Tribunal has no basis for disbelieving the Respondents on a simple factual point. In the absence of any more compelling evidence from the Applicants that the rebuild value is unreasonably high the Tribunal is not in a position to determine that it is too high.
22. The Applicants have obtained many alternative quotations. Those which contain very little detail as to the basis on which the quotation has been made must be discounted, as the details are important. For example, the risks covered, the detailed description of the property, the number of properties within the same policy, the basis on which the insured is seeking cover (e.g. whether as a commercial property owner