

5118

LON/OOAZ/LAM/2010/0008

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER THE LANDLORD AND TENANT ACT 1987
SECTION 24**

PROPERTY: 37 HOMECROFT ROAD, LONDON SE26 5QN

APPLICANT: Mr TERENCE LONGMORE (Top Flat)

RESPONDENT: MRS DAPHNE KING (Freeholder)

TRIBUNAL

Mrs T I Rabin
Mr C White FRICS

Date of Tribunal's decision: 16th June 2010

37 HOMECROFT ROAD LODNON SE26 5QN

FACTS

1. The Applicant is the long leaseholder of the top floor flat located at 37 Homecroft Road London SE26 5QN ("the Building") and the Respondent is the freeholder who resides in the ground floor flat in the Building. On 1st March 2010 the Applicant made an application under Section 24 of the Landlord and Tenant Act 1987 ("the Act") for the appointment of a manager for the Building and had also made an application for the determination in relation to the insurance premiums in respect of the Building under Section 27A (1) Landlord and Tenant Act 1985 ("the 1985 Act") under number LON/OOAZ/LSC/2009/0390.
2. The Tribunal informed the Applicant that there was no jurisdiction to determine the application in this case and invited him to withdraw the application or have the matter determined at a jurisdiction hearing. The Applicant requested a jurisdiction hearing and the matter was set down for a jurisdiction determination on consideration of the papers submitted. The Tribunal also made a separate determination in respect of the application under Section 27A of the 1985 Act. This decision relates only to consideration of the question of the Tribunal's jurisdiction.

THE TRIBUNAL'S JURISDICTION

3. The Tribunal's jurisdiction to appoint a manager is set out in Sections 21 to 24 of the Act. Section 21 (3) of the Act provides:

This Part does not apply to such premises at a time when:

- (a) the interest of the landlord in the premises is held by an exempt landlord or a resident landlord, or
- (b) the premises are included within the functional land of any charity

EVIDENCE AND DECISION

4. The Building comprised two flats. The Applicant was the long leaseholder of the top floor flat and the Respondent, who was the freeholder, resided in the ground floor flat. The Applicant wanted a manger to be appointed, as he had been unable to ensure that the Respondent complied with her obligations under the lease under which the Applicant held the top floor flat.
5. The Tribunal is aware that the Applicant has had difficulty in obtaining information about the insurance of the Building and has been provided with no evidence by the Respondent that the Building is in fact insured in accordance with the terms of the Lease. In addition, despite living under the same roof, the Applicant has been unable to persuade the Respondent to undertake necessary repairs and renovations to the common parts. It was the Applicant's inability to ensure the Respondent managed the Building that has led to this application
6. The provisions of Section 21(3) of the Act specifically exclude the Tribunal's jurisdiction to appoint a manager where the landlord is resident in the property. Whilst the Tribunal has sympathy with the Applicant, it has no jurisdiction to deal

with the application. Any dispute regarding a landlord's performance of its obligations under a lease has to be determined by the county court and not this Tribunal.

TRIBUNAL:

MRS T I RABIN
Chairman

16th June 2010