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London Leasehold Valuation Tribunal File Ref No.

LON/OOAZ/LSC/2010/0460

Leasehold Valuation Tribunal: reasons

Landlord and Tenant Act 1985 section 27A

Address of Premises

Ground Floor Flat,
33 Sunderland Road,
London SE23 2PS

The Committee members were

Mr Adrian Jack
Mr Andrew Lewicki MRICS

The Landlord:

Waterglen Ltd

The Tenant:

Mr Timothy Shaun Timmins

Procedural

1. By an application received by the Tribunal on 30th June 2010, the landlord sought determination of estimated service charges due in the year ending 24th March 2010 and in the year ending 24th March 2011 and a declaration that the landlord has properly carried out its duties to consult under section 20 of the Landlord and Tenant Act 1985 in respect of works to the roof.
2. By directions given on 12th July 2010 the tenant was ordered by 6th August 2010 to serve on the landlord a reasoned statement setting out his objections to the amounts claimed by the landlord. The tenant failed to comply with that direction. Accordingly the only evidence before the Tribunal is that adduced by the landlord.
3. The directions also provided for the case to be decided on paper, but each party was given the right to request an oral hearing. In the event neither party requested a hearing, so the Tribunal determines the matter on the basis of the documents submitted by the landlord.
4. No party requested an inspection and none was held.

The law

3. The Landlord and Tenant Act 1985 as amended by the Housing Act 1996 and the Commonhold and Leasehold Reform Act 2002 provides as follows:

Section 18

(1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent-

- (a) which is payable directly or indirectly for services, repairs, maintenance, improvement or insurance or the landlord's costs of management, and
- (b) the whole or part of which varies or may vary according to the relevant

costs

- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord or a superior landlord in connection with the matters of which the service charge is payable.
- (3) for this purpose
 - (a) costs includes overheads and
 - (b) costs are relevant costs in relation to a service charge whether they are incurred or to be incurred in the period for which the service charge is payable or in an earlier period

Section 19

- (1) 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 works, only if the services or works are of a reasonable standard; and the amount payable shall be limited accordingly.
- (2) 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.

Section 27A

- (1) An application may be made to a leasehold valuation tribunal for a determination whether a service 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.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to a leasehold valuation tribunal for a determination whether costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and if it would, as to---
 - (a) the person by whom it would be payable,
 - (b) the person to whom it would be payable,
 - (c) the amount which would be payable,
 - (d) the date at or by which it would be payable, and
 - (e) the manner in which it would be payable.”

In addition section 20 provides for the landlord to consult on major works which it intends to carry out. Further provisions are contained in the Service Charges (Consultation Requirements) (England) Regulations 2003.

The lease and the service charges

4. The tenant holds under a lease dated 24th January 1995 for ninety-nine years from the feast of the birth of St John the Baptist 1991. The lease contains standard provisions for the payment of estimated service charges on account with a balancing charge once the final accounts are available. All the matters which are sought to be charged by the landlord appear to fall within the service charge provisions of the lease. The tenant is obliged to pay three-eighths of the total.
5. In the year ending 24th March 2010 the landlord seeks to recover £1,568.80 by way of estimated service charges. In the absence of any challenge by the tenant, the Tribunal considers that this is a reasonable figure. The tenant is obliged to pay £588.30, payable half on 25th March 2009, half on 29th September 2009.
6. In the year ending 24th March 2011 the landlord seeks to recover £1,082.28 by way of estimated service charges. Again in the absence of any challenge by the tenant, the Tribunal considers that this is a reasonable figure. The tenant is obliged to pay £405.83, payable half on 25th March 2010, half on 29th September 2010.
7. In relation to the major works, the position is that the roof is in a very poor state of repair and requires urgent replacement. The landlord has carried out a full consultation exercise in accordance with section 20. The landlord has accepted the cheapest quote. In these circumstances the landlord is entitled to demand a reasonable sum on account. The tenant's share of the cost is £6,792.96, payable half on 25th March 2010, half on 29th September 2010.

Costs

8. In respect of the fees payable to the Tribunal, which consist of the application fee of £200, the Tribunal has a discretion as to who should pay these. Since the landlord has won, in our judgment the tenant should repay the landlord this money. There is no application for an order under section 20C of the Landlord and Tenant Act 1985.

DECISION

The Tribunal accordingly determines:

- a. **that the tenant is obliged to pay the landlord £588.30, payable half on 25th March 2009, half on 29th September 2009**
- b. **that the tenant is obliged to pay £405.83 and £6,792.96 (a total of 7,198.79), payable half on 25th March 2010, half on 29th September 2010; and**
- c. **that the tenant do pay the landlord £200 in respect of the fees payable to the Tribunal.**



Adrian Jack, chairman

20th September 2010