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Residential
Property
TRIBUNAL SERVICE

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON
APPLICATION UNDER SECTION 27 OF THE LANDLORD AND TENANT
ACT 1985**

LON/00BB/LSC/2010/0431

Premises: 5 Neville Road
Forest Gate
London
E7 9QU

Applicant: Mr A Vuoto

Respondent: Dalkator Limited

Tribunal Ms F Dickie, Barrister

Date of Determination: 15th September 2010

Determination - The Application is Dismissed

Preliminary

1. The application received on 24th May 2010 is for a determination as to the reasonableness and payability of estimated service charges for the year 2010. The premises are described as a 1 bedroom first floor flat in a building understood to comprise 2 residential units in total. The Applicant is the non-resident leaseholder of the subject premises and the Respondent is the freeholder, acting through its managing agent Circle Residential Management Limited.
2. A Service Charge Estimate dated 15th February 2010 subsequently provided by the Applicant indicates that his challenge is to:

Building Repairs	£358
Year End Accounting	£182
Management Fee	£620
Total	£1160 for the property

The contribution sought from the Respondent is 50% of this figure. No challenge is brought to the cost of Buildings Insurance in the sum of £640 for the property.

3. A Pre Trial review was fixed for 13th July 2010 but neither party attended. Directions were issued for the parties to serve statements of case and for the Applicant to prepare a bundle of documents for use by the Tribunal. It appears that neither party has complied. The Tribunal directed that the matter was suitable for determination on the papers and since neither party has exercised their right to request an oral hearing I have determined this matter on the documentation before me.
4. Service charges are payable under Clause 1(4) and in accordance with the Fifth Schedule of the Applicant's Lease. That Schedule provides for the payment of an "Interim Charge" payable by equal payments in advance on 1st July and 1st January in each year. The "Interim Charge" means "*such sum to be paid on account of the Service Charge in respect of each Accounting Period as the Lessor or its Managing Agents shall specify at their discretion to be a fair and reasonable interim payment*".
5. This Application, relating only to the Interim (estimated) Charge, fell within the Tribunal's jurisdiction under Section 27A(3) of the Landlord and Tenant Act 1985, which provides:

(3)An application may also be made to a leasehold valuation tribunal for a determination whether, if 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.

6. An Agreement signed by both parties, dated 20th July 2010 and provided to the Tribunal on 20th August, includes the following term:

"BY CONSENT it is agreed that:

The following Interim Service Charge liability in the sum of £650.00 is agreed as being reasonable, properly due and payable under the terms of the lease of the above property for the period from 01.01.10 to 31.12.10."

The Applicant has subsequently, in a letter to the Tribunal dated 8th September, reasserted his challenge to the reasonableness of the

estimated service charges for the year 2010. However, Section 27A(4) of the Act provides:

No application under subsection (1) or (3) may be made in respect of a matter which—

(a) has been agreed or admitted by the tenant,

Determination

7. The signed agreement dated 20th July 2010 constitutes an agreement by the tenant as to the estimated service charges for the year 2010. Accordingly, the Tribunal now has no jurisdiction by virtue of section 27A(4) to consider this application, which must therefore be dismissed.

8. The Applicant's agreement only extends to the estimated charges for the current year, and not to the actual charges. This determination does not prevent the tenant from seeking to challenge the actual service charge once these have been ascertained, the year end accounts prepared, and any balancing charge calculated.

Signed

15th September 2010

Chairman