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Residential  
Property  
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL  
LEASEHOLD VALUATION TRIBUNAL**

**Case Reference: LON/OOBE/LSC/2009/0801**

**THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION UNDER  
SECTION 27A of the Landlord and Tenant Act 1985**

**Applicant: Mr J. Custodio**

**Respondent: London Borough of Southwark Home Ownership Unit**

**Premises: 98B Grosvenor Terrace, London SE5 ONW**

**Date of Hearing 12 April 2010**

**Appearances for Applicant: Ms Sorbjan Litigation Officer  
Mr Buckley Calfordseaden**

**Appearances for Respondent Mr Custodio**

**Leasehold Valuation Tribunal: Mrs B. M. Hindley LL.B  
Mrs S. Coughlin  
Ms S. Wilby**

**Date of Tribunal's Determination 19 April 2010.**

1. This is an application, dated 10 December 2009, under Section 27A of the Landlord and Tenant Act 1985 to determine the reasonableness of service charge costs arising from major work effected in 2004. The apportioned costs to the applicant had been estimated at £9,393. 91p. but when the final account had been produced on 8 November 2007 he was required to pay £8,183.70p.
2. The applicant originally queried also the costs of major works effected in 1999 but at the Pre Trial Review, on 19 January 2010, the respondents stated that they were no longer seeking any payment in respect of these works and they subsequently confirmed this in the statements they supplied for this hearing.
3. Prior to the hearing the Tribunal inspected the subject property in the company of the applicant and representatives of the respondents.
4. The Tribunal found the basement, ground, first and second floor terraced house, converted into upper and lower maisonettes, to be in only fair external condition. Inside the common parts consisted of a small, vinyl floored, hallway with doors leading to the two units.
5. The applicant pointed out peeling wallpaper on his first floor landing and some water staining. In the rear first floor living room he said that the exterior wall was damp as a result of defective guttering. In the front kitchen he said that the window required attention and in the second floor rear bedroom he pointed out the very poor condition of the casement window in the mansard and damp staining on the walls and ceiling adjacent. He also drew the Tribunal's attention to the rust visible on the fire escape staircase.
6. At the hearing the Tribunal considered the applicant's contention that he had not received a notice under Section 20 of the Landlord and Tenant Act 1985 in connection with these works.
7. They also considered his claims, based on the estimate for the works, which was the only information then available to him of the individual costs of the various items included in the final account. He contended that the costs were not reasonable because much of the specified work had not been carried out, some of the work had not been done to a reasonable standard and that he was being charged for works that were not his responsibility.
8. The Tribunal heard evidence from Mr Buckley employed by Calfordseaden who had been involved as the contracts administrator for the works. Immediately prior to the hearing Mr Buckley produced a document which showed the costs of the individual items of work and which had formed the basis for the drawing up of the final account which had been produced on 8 November 2007.

#### Section 20

9. The respondents produced a copy of a Section 20 notice, dated 9 July 2004 under Schedule 3 of the Service Charges (Consultation etc) (England) Regulations 2003, covering the consultation requirements for qualifying works under qualifying long term agreements. They claimed that such a notice had been hand delivered to the subject property. Questioned by the Tribunal Ms Sorbjan said that it was the respondents' policy to hand deliver such documents and that, for security purposes, those delivering worked in pairs. Questioned further she

21. On the basis of their inspection the Tribunal accepted the remaining costs as reasonable and reasonably incurred.

Wall Render Repairs £494

22. This item was not challenged by the applicant

External Decorations £2,201.70p

23. The applicant was critical of the standard of the workmanship and said that the casement window of the top floor rear bedroom had been omitted. He was also concerned that rust was very obvious on the fire escape staircase leading to the rear garden. He considered that this demonstrated that proper preparation had not been undertaken.

24. Mr Buckley considered the overall cost to be cheap but said that he was not persuaded that the additional top coat of gloss paint listed had, in fact, been applied. He was also unable to explain why the cost of an additional top coat exceeded the cost of preparing, priming, undercoat and first gloss. He also accepted that the top window had not been decorated. He suggested that the window area was about 1 square meter. He explained that unless a great deal of money was spent on the fire escape rust would continue to show. In his opinion painting had prolonged its life.

25. The Tribunal accepted that with the reductions proposed by Mr Buckley the remaining costs were reasonable and reasonably incurred.

Windows and Doors £809.

26. The applicant claimed that his windows had never been adjusted and that no workmen had entered his flat to do such work.

27. Mr Buckley said that such work had to be done from inside and that the schedule of rates allowed £55 per window. The cost represented work to some eleven windows.

28. The Tribunal, finding support from their own inspection, accepted the evidence of the applicant that no work had been done to his windows. Accordingly, they determine as reasonable and reasonably incurred the cost of work to only six windows.

29. Mr Buckley was unable to provide any explanation for the inclusion of a separate item of £204 under this heading for decoration of window frames, so the Tribunal considered this cost also not to be reasonable or reasonably incurred.

Drainage Works £200

30. This cost was not challenged by the applicant.

Communal Area Works £962.50p

31. The applicant contended that plywood had not been laid (cost £195). The Tribunal questioned the cost of £500 for decoration which had not featured at all in the original estimate.
32. Mr Buckley said that it had been necessary to put plywood over the existing floor before laying the new vinyl. He explained that under the schedule of rates £500 was allowed for decorating a small hallway and would include a staircase where one existed.
33. The Tribunal accepted that plywood had been laid in the hall but was not persuaded that £500 was a reasonable cost for the decoration of the very small hallway of the subject property. They were of the opinion that only £250 was reasonable and would be reasonably incurred.

Internal Works Flat B £66.50p

34. The applicant said that glass in a door had been broken in the course of the 1999 works but did not otherwise challenge these costs. He agreed that the original cost of the door replacement had not been charged to him.
35. The mastic seal under the window was examined by the Tribunal on site and Mr Buckley agreed that it was older than six years. The Tribunal, therefore determined this cost not to be reasonable or reasonably incurred.

Additional Works £2,389

36. £2,205 of these costs were incurred in respect of damp proofing works carried out in Flat A and the applicant said that they were, therefore, not his responsibility.
37. Ms Sorbjan said that under the terms of the lease the applicant was liable to contribute towards maintaining the structure of the building.
38. The Tribunal accepted that Ms Sorbjan's interpretation of the lease was correct but they noted that damp proofing works had not been mentioned in the Section 20 notice.
39. Ms Sorbjan agreed that this was correct but she maintained that they could come under the heading of drainage works which had been specified although only a survey had been undertaken. She indicated that she was not minded to make an application under Section 20ZA for dispensation.
40. Questioned by the Tribunal Mr Buckley said that the drainage problems were at the front of the building whereas the damp proofing had been effected to a rear room. He produced the estimate obtained from the company which carried out the works but was unable to confirm that any other estimate had been obtained.
41. In the circumstances of the lack of proper consultation the Tribunal determines that the cost of the damp proofing should be reduced to £250.
42. Mr Buckley agreed that the final variation item of £30 for the supply and fit of a spinner vent to Flat B was incorrect so the Tribunal determines this cost not to be reasonable or to have been reasonably incurred.

#### Additional Costs

43. A 4.02% fluctuation on scheduled rates (£376.65p) was added to the final account as permitted by the schedule of rates and not queried by the applicant.
44. A 11.2% uplift was also applied on occupied premises (£1,091.56p). Mr Buckley said that this was permitted to enable liaison officers to be appointed to deal with tenants' concerns during the contract period where internal access was needed to carry out works. Mr Buckley stated that this uplift was not required for external works.
45. The applicant said that no such officer had been available to him and Mr Buckley agreed that such appointments were made in respect of Estates not street properties.
46. In the circumstances of this contract the Tribunal considered this cost not to be reasonable or reasonably incurred.

#### Determination

47. As a result of all the above the Tribunal determines the costs payable by the applicant in respect of the major works effected in 2004 to be £5,160.86p as set out in greater detail on the spread sheet attached as Annex 1.
48. The Tribunal would comment that the works were completed in July 2005 but the applicant was not informed of the final costs until July 2007. From the information then available to him he was unable to discover the costs of individual items, That vital information was not made available until the commencement of the hearing although by then two complaint procedure analyses had been carried out by the respondents. Since it would appear that the information was available before July 2007 its production at a much earlier stage might have saved a great deal of time and money. The respondent did not have a copy of the original invoice available at the hearing but was able to provide it on the following day. It was dated 18 October 2004.

Chairman B. M. Hindley

Date 19 April 2010

ANNEX 1				
98 GROSVENOR TERRACE SE5				
External Works		Final rechargeable cost	Tribunal decision	Non-rechargeable
Scaffolding		£2,390.26	£2,390.26	
General		£563.50	£563.50	
Roofing		£1,880.50	£1,428.50	
Wall/render		£494.00	£494.00	
External decorations		£2,001.70	£1,420.50	
Windows and doors		£809.00	£330.00	
Drainage works		£200.00	£200.00	
Communal				
Communal area works		£962.50	£712.50	
<b>Flat A</b>				
Total Flat A cost				£7,933.10
<b>Flat B</b>				
Top floor rear bedroom		£2.00	£0.00	
Hallway		£66.00	£66.00	
<b>Total</b>		<b>£9,369.46</b>	<b>£7,605.26</b>	
		<b>4.02% fluctuation</b>	<b>£376.65</b>	<b>£305.73</b>
		<b>11.2% occupied uplift</b>	<b>£1,091.56</b>	<b>£0.00</b>
<b>Variations</b>				
Metal grille to scaffolding		£100.00	£100.00	
Damp works -see * below		£2,205.00	£0.00	
Box in electrical head		£54.00	£54.00	
Spinner vent		£30.00	£0.00	
		<b>£2,389.00</b>	<b>£154.00</b>	
		<b>10% uplift</b>	<b>£238.90</b>	<b>£15.40</b>
		<b>Total variations</b>	<b>£2,627.90</b>	<b>£169.40</b>
		<b>Final total</b>	<b>£13,465.58</b>	<b>£8,080.39</b>
<b>Calculation of service charge</b>		Flat B contribution (50%)	£6,732.79	£4,040.20
		Supervision @10.5%	£706.94	£424.22
		<b>Sub-total</b>	<b>£7,439.73</b>	<b>£4,464.42</b>
		Admin @10%	£743.97	£446.44
*Flat B contribution to damp proofing works				£250.00
		<b>Final service charge</b>	<b>£8,183.70</b>	<b>£5,160.86</b>