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Residential
Property
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL
COMMONHOLD AND LEASEHOLD REFORM ACT 2002**

LON/00BG/LAC/2010/0021

Premises: Flat 4, Portrait Place
15 Cheshire Street
London E2 6ED

Applicant: Mr D Popat

Respondent: Freehold Managers (Nominees) Ltd

Represented by: Freehold Managers plc, agents

Tribunal: Mr NK Nicol
Mr C Gowman MCIEH
Mrs J Hawkins

Date of Decision: 20/09/10

REASONS FOR DETERMINATION

1. The Applicant is the leasehold owner of the subject property at Flat 4, Portrait Place, 15 Cheshire Street, London E2 6ED. He has been the leaseholder since 2001 when he purchased the property from a Mr G Page. The Respondent is the freeholder.
2. By letter dated 6th May 2010 the Respondent's solicitors demanded payment of £1,814.21. The Applicant has since paid the amount but protests that £224.21 of that was not payable. He has applied to the Tribunal for a determination as to the payability of this amount under Schedule 11 to the Commonhold and Leasehold Reform Act 2002. The Tribunal directed that the application should be determined on the papers without a hearing. Both parties have accordingly provided written representations and the Tribunal has proceeded to its determination.

3. The Respondent's case is that the sum of £224.21 breaks down as follows:-

Freeholders administration charge	£145.62
Freeholders solicitors charge	£78.50

4. The Respondent claims that these charges were incurred due to the fact that the Applicant owes ground rent dating back to 2005 and are recoverable under clause 3(11) of the lease, the relevant parts of which read as follows:-

3 THE Lessee COVENANTS with the Lessor ...

- (11) From time to time to pay on demand all reasonable costs charges and expenses (including legal costs and surveyor's fees) incurred by the Lessor for the purposes of or incidental to ... any Notice under the provisions of Sections 146 or 147 of the Law of Property Act 1925

...

5. The Applicant admits not having paid ground rent and insurance contributions but asserts that he had been paying service charges to the managing agents which he thought included these sums. He now realises, on checking, that the service charges did not include these sums and has paid the arrears to the Respondent. However, he asserts that he never received any demands from the Respondent for these sums. He explains how this could have happened by pointing to his

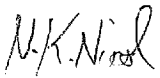
discovery of a demand for payment issued to his predecessor-in-title dated 25th November 2009. The Respondent has provided documents apparently correctly addressed but the Applicant asserts that these were probably created recently to justify their claim.

6. It seems likely that the Respondent did send out wrongly-addressed demands which would explain the Applicant's non-payment. However, in the Tribunal's opinion, there are more fundamental problems with the Respondent's demand for the sum of £224.21:-

(a) The "breakdown" set out in paragraph 3 above is wholly inadequate because it explains nothing. To be payable, the charges must be reasonable but it is impossible for the Tribunal to determine reasonableness with such a paucity of information. The Tribunal simply has no idea what the Respondent or their solicitors did to justify the sums claimed.

(b) There is no evidence that the Respondent was anywhere near issuing a s.146 notice. They had yet even to make the requisite application to the Tribunal prior to issuing such a notice. Simply because an action precedes, or is even a condition precedent, to the issue of a s.146 notice does not mean that it is "for the purposes of or incidental to" such a notice. The Tribunal is not satisfied that the sums in question fall within clause 3(11) of the lease as claimed.

7. For the reasons set out in sub-paragraphs (a) and (b) of paragraph 6 above, the Tribunal determines that the sum of £224.21 is not payable by the Applicant.

Chairman.....

Date 20th September 2010