

7348



## **LEASEHOLD VALUATION TRIBUNAL**

Schedule 11, Commonhold and Leasehold Reform Act 2002

Ref: LON/00BJ/LAC/2011/0013

43 Parkview Court, Broomhill Road, SW18 4J9

---

Mr R Osinowo & Ms E Moretti

Applicants

Proxima GR Properties Limited

Respondent

Tribunal: Mr M Martynski (Solicitor)  
Mr P Tobin FRICS MCI Arb

## **DECISION**

### **Decision summary**

1. The Tribunal has no jurisdiction to consider this application.

### **Background**

2. In this application the Applicants have asked the Tribunal to determine that administration fees charged by the Respondent for the registration of sub-tenancies are unreasonable.

3. The case was considered on the papers alone<sup>1</sup>, no party having requested an oral hearing.

---

<sup>1</sup> Both parties made full submissions in writing

4. The Applicants' lease is made between three parties. The first party is the freeholder of the building, the second party is the Management Company that runs the building, the third party is the leaseholder.

5. The Applicants sublet the flat in question. The Respondent has asked the Applicants to pay a fee for the registration of the documents in the sub-letting.

6. The Applicants do not need any consent from freeholder or Management Company to sub-let the whole of their flat on short-term leases.

7. The relevant part of the lease states:-

Within one month after the date of any .....underlease or tenancy agreement.....of the whole of the Demised Premises.....to pay .....at the same time to the Management Company's Secretary such reasonable fee appropriate at the time of registration in each case together with Value Added tax.....  
[clause 26 of the Seventh Schedule]

8. The Tribunal only has the power to deal with the reasonableness of administration charges for or in connection with the giving approvals under the lease<sup>2</sup>. The Tribunal has no power to deal with administration charges that concern the registration of documents connected with subletting. Further, as the Applicants do not require any consent to sub-let, the fees charged for registration cannot be said to be 'in connection with' the giving of approvals.

9. However, the Tribunal does note that clause 26 of the Seventh Schedule of the Applicants' lease states that the registration fee is to be paid to the Management Company, *not* to the freeholder. In the Respondent's statement of case, it said that the agents who demand the fee, Estates & Management Limited, act on behalf of the freeholder.

10. It is not clear from the papers before the Tribunal whether the demand for the administration charges has been made on the freeholder's behalf alone. If this is the case, then it seems to the Tribunal that no fee is payable to the freeholder, only to the Management Company.



.....  
Mark Martynski  
Tribunal Chairman  
28 November 2011

---

<sup>2</sup> Paragraph 1, Part 1, Schedule 11, Commonhold and Leasehold Reform Act 2002 – see the relevant section set out at the end of this decision

## SCHEDULE 11

### Administration charges

#### Part 1 Reasonableness of administration charges

##### Meaning of "administration charge"

1(1) In this Part of this Schedule "administration charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—

(a) for or in connection with the grant of approvals under his lease, or applications for such approvals,

(b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,

(c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or

(d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.

(2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c. 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.

(3) In this Part of this Schedule "variable administration charge" means an administration charge payable by a tenant which is neither—

(a) specified in his lease, nor

(b) calculated in accordance with a formula specified in his lease.

(4) An order amending sub-paragraph (1) may be made by the appropriate national authority.

##### Reasonableness of administration charges

2A A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

##### ***Liability to pay administration charges***

5(1) An application may be made to a leasehold valuation tribunal for a determination whether an administration 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) Sub-paragraph (1) applies whether or not any payment has been made.

(3) The jurisdiction conferred on a leasehold valuation tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.

(4) No application under sub-paragraph (1) may be made in respect of a matter which—

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

(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,

(c) has been the subject of determination by a court, or

(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—

(a) in a particular manner, or

(b) on particular evidence,

of any question which may be the subject matter of an application under sub-paragraph (1).