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LONDON RENT ASSESSMENT PANEL

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER SECTIONS 19, 27A AND 20C OF THE
LANDLORD AND TENANT ACT 1985**

Case Reference: LON/00AG/LSC/2011/0837

Premises: 22 Dennington Park Road
London
NW6 1BA

Applicants Mr J Dwek, Mr P Jolly And Mr S Kelly

Represented by Mr P Jolly

Respondent Farlane Developments Limited

Represented by Mr S Tucker BLR Property Management Limited

Date of hearing: 5 March 2012

**Leasehold Valuation
Tribunal:** C Norman FRICS
P Roberts Dip Arch RIBA

DECISION

Introduction

1. This matter concerns the reasonableness and payability of service charges in a converted property comprising three flats. Each are let on long leases. These provide that service charges are to be apportioned on the basis of one-third per flat.
2. On 1 June 2011 the management of the property was transferred from Greene & Co to BLR Property Management Limited.
3. The Tribunal received an application dated 7 December 2011 in which the applicants dispute three items of estimated charges in the 25/12/2010 – 24/12/2011 service charge year. The disputed items comprised management fee of £462 of which £199.50 was disputed, an annual health and safety inspection fee of £400 amount disputed £200 and repairs and maintenance of £500 which was disputed in its entirety. These items relate only to that portion of the year from 1 June 2011 to 24 December 2011, that is following the change of managing agents.
4. By the date of the hearing, actual amounts for the year ending 24 December 2011 were known. Further, only the management fee remained in dispute.
5. Mr Jolly asked if the year 2011/12 could also be considered but Mr Tucker objected. As the application did not include that service charge year the Tribunal determined that it should not form part of these proceedings.

The Applicants' Case

6. Mr Jolly for the Applicants considered that the management fee was too high for two reasons. Firstly, the current managing agents BLR who had taken over the property in June 2011 had managed the property inefficiently. This was evidenced by service charge demands that had changed a number of times and were too large. In particular, BLR was no longer contending that the tenants should have to pay the annual health and safety inspection nor the repairs and maintenance sum claimed.
7. Secondly, Mr Jolly claimed that the amount claimed for management was much higher than the charges of the previous managing agents Greene & Co. However, he had not obtained any comparable quotes from other agents.

The Respondent's Case

8. Mr Tucker for the landlord explained that the property management had been acquired following a portfolio acquisition. Difficulties had been experienced in obtaining invoices and documentation from the previous managing agents. BLR had had to take an initial view on matters until the invoices had been provided. BLR was now no longer relying on previous invoices showing the annual health and safety check nor any significant repairs expenditure.
9. In his written submission Mr Tucker had set out the basis of his company's instructions. He explained that the tasks of a managing agent had become increasingly onerous.
10. The charge sought was £220 per flat plus VAT.

Findings

11. The Tribunal from its own knowledge and experience considers that the charge sought by the landlords for its managing agents fees of £220 per flat per annum plus VAT would be reasonable if the service had been provided to a reasonable standard. The Tribunal accepts that the task of a managing agent was skilled and onerous.
12. The Tribunal does not regard the previous fee level applied by Greene & Co to be helpful. This is because it dates from 2006 and because Greene & Co does not appear to be registered for VAT. The Tribunal considers the fee of £150 per flat per annum to be too low.
13. However, the Tribunal considers that the Applicants did not receive a service of reasonable quality as a result of difficulties of handover between the managing agents. These problems are not the fault of the Applicants.
14. For that reason the Tribunal considers that a reduction in the management fees of £220 per flat per annum (plus VAT if payable) of 20% is justified for that portion of the service charge year following the handover from Greene & Co to BLR Property Management.
15. As against the amount claimed of £154 per flat (plus VAT if payable) this leaves the reasonable amount of the management charge of £123.20 per flat (plus VAT if payable) in respect of that period.
16. The Tribunal finds that that sum is payable by each of the Applicants and that payability arises on the date of this decision.

The Application for an Order under section 20C of the Act

17. The Applicants have applied for an Order under the above provision.

18. Section 20C of the Landlord and Tenant Act 1985 (inserted by the Landlord and Tenant Act 1987) provides:

"(1) A tenant may make an application for an order that all or any of the costs incurred ... by the landlord in connection with proceedings before a court or leasehold valuation tribunal, or the Lands Tribunal ... are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application."

19. The sole guidance as to how such application is to be determined is contained in sub-section (3) as follows: "The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances."

20. In the Tribunal's judgment the only principle upon which the discretion should be exercised is to have regard to what is just and equitable in all the circumstances. This will include the degree of success of the tenant and the conduct of the parties.

21. The Tenant has been successful in its application. The landlord withdrew some disputed amounts before the hearing and the management charge claimed has been reduced.

22. Consequently the Tribunal considers that it should make an Order under section 20C.

23. The Tribunal **ORDERS** that none of the costs incurred by the Applicants in connection with proceedings before the Leasehold Valuation Tribunal under case no LON/00AG/LSC/2011/0837 are to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Applicants to this action.



C Norman FRICS
Chairman

20 March 2012