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HM Courts & Tribunals Service

Leasehold Valuation Tribunal
Case Number: CAM/26UC/LSC/2012/0094

Property	:	**15 Aldwyck Court, Leighton Buzzard Road, Hemel Hempstead, Herts HP1 1SJ**
Applicants	:	**Richard Rule & Gordon Loughran ("the Lessees")**
Respondent	:	**Aldwyck Housing Group Limited ("the Lessor")**
Date of Application	:	**25th July 2012**
Type of Application	:	**Application for a determination of liability to pay service charges, pursuant to section 27A of the Landlord and Tenant Act 1985**
Date of Hearing	:	**17th January 2013**
Tribunal	:	

Mrs. Joanne Oxlade	**Lawyer Chairman**
Ms. Marina Krisko BSc. (EST MAN) FRICS	**Valuer Member**
Mr. Adarsh Kapur	**Non-legal Member**

Attendees

Applicant	**Respondent**
Richard Rule (Applicant)	**Paul Winslet Asset Surveyor Rino Sapia Home Ownership Manager**

DECISION

For the following reasons, the Tribunal finds that:

(i) the Respondent failed to comply with the statutory consultation requirements in respect of works carried out to the roof of the

building in 2011, and so the Applicants liability for service charges in respect of it is limited to £250,

(ii) the Respondent's costs of responding to the proceedings are not recoverable under the terms of the lease; in the alternative the Tribunal makes an order pursuant to section 20C of the 1985 Act that those costs shall not be added to the service charge account,

(iii) the Respondent shall reimburse to the Applicants the sums paid by them to the Tribunal for bringing the application and setting the case down for hearing, namely £250.

REASONS FOR THE DECISION

The Application

1. The Applicants are the lessees of the premises, held under a lease dated 21st January 1983 between Aldwyck Housing Association ("the Respondent") and Frederica Rosalind Rowe.

2. Clause 4 (xi) of the lease imposes on the Applicants a liability to pay service charges to the Respondent, who by virtue of clause 7(2)(a) of the lease is obliged to insure and maintain the building, the reserved property and the common parts. The proportion of service charge payable, the timing of payments, and certification of costs payable are set out in Schedule 4 of the lease.

3. The Applicants issued an application pursuant to section 27A of the 1985 Act to determine the reasonableness and payability of service charges incurred in the service charge year 2011/2012, in respect of major works to the roof.

4. In their application the Applicants said that the Respondent had refused to allow them (both Chartered Surveyors) access to the roof to inspect it so that they could see the nature of the problem, and so that they could put forward the names of suitable contractors from whom quotes could be obtained. Further, when enquiry was made of the Respondent, it failed to give details of the problems with the roof, without which they could not assess an appropriate specification and could not satisfy themselves that the work was necessary. Further, the nature of the works appeared to have changed, between notices 1 and 2, as by notice 2 some of the works said to be needed in notice 1 were not mentioned. The Applicants called into question the competence and reasonableness of the original specification. The Applicants raised as an issue whether there was an inherent defect in the roof of the building, and whether this affected the liability to pay service charges.

5. Directions were made for the filing of evidence on 6th July 2012 and pursuant to those Directions Orders the parties filed documentary evidence, all of which the Tribunal has read and considered.

6. The preamble to the Directions invited the Respondent to direct its mind to the question of making a section 20ZA application (a dispensation from the consultation procedure) as if such an application was to be made, it should be issued and heard at the same time as this application. No such application was made by the Respondent.

Inspection and Hearing

7. The Tribunal inspected premises on 17th January 2013 in the presence of the above-named attendees, and thereafter conducted a hearing.

Inspection

8. Aldwyck Court is a 4-storey block of flats constructed in the mid-1970's of brick under a tiled roof. It consists of four buildings, standing on the points of the compass; at the point where they each meet is a building with a flat roof, from which roof the four buildings can be seen, including their pitched roofs, and their internal box gutter system.

9. The Respondent had arranged for the Tribunal to have access to the flat roof, but as the Tribunal were told that there were photographs available, the Tribunal did not consider inspection necessary. The Applicants did not require the Tribunal to inspect it.

Hearing

10. At the commencement of the hearing the Tribunal identified the apparent issues: namely whether the Respondent had complied with the section 20 consultation procedure; whether the works done were reasonably necessary, and at a reasonable cost.

The Applicant's Case

11. Mr. Rule spoke on behalf of the Applicants, and relied on his letter of 10th September 2012 which set out his essential points, on which he expanded.

12. The Applicants' case is that in late January 2011 they were served with a document called a "Notice 1, Notice of intention to carry our works" dated 27th January 2011. It detailed the proposed works as follows:

> "*Replacement of the existing hidden box section rainwater gutters to all sections of the pitched roof. Renewal of all existing hopper heads, removal of all existing roof tiles, under felt and batten and fitting new. Renewal of existing flat roof covering to centre roof section.*

We consider it necessary to carry out the works because: ***the existing roof coverings and rainwater goods have started to break down****".*

13. Attached to Notice 1 was a covering letter dated 26th January 2011 which estimated the costs to be £80,000 to £100,000; the Applicants' contribution would be £1,666.66 to £ 2,083. 33.

14. On receipt of Notice 1 Mr. Rule wrote to Mr. Winslet on 8th February 2011 asking for permission for the Applicants to inspect the roof, as they wanted to "satisfy themselves as to the extent, necessity and costs of the works". The letter made the point that the notice provides limited information as to condition, and he registered his concern that a roof of only 35 years would require replacement, in the absence of an inherent defect. He said that on his visits he had not noticed any significant visual evidence of deterioration. He asked if there had been leaks. The Applicants would in due course provide contractor details, and asked that the Respondent obtain quotes from them. In oral evidence the Applicant said that although he was not a building surveyor, he had formerly worked at Dacorum District Council, and had managed flat roofs and had to sort them out, so he had some experience. He added that without any real steer as to what the perceived problems were, and some idea of what works were being proposed he could not select a suitable Contractor to do the works. If he telephoned one of his known contacts to ask for a quote, the first question they would ask would be "what works are needed", and in the absence of a sensible answer they would not take his enquiry seriously and not put in the time necessary to make a quote.

15. Paul Winslet, Asset Surveyor for the Respondent acknowledged receipt of the letter by email dated 10th February 2011, and said that he would revert in due course. On 1st April 2011 Mr. Winslet responded by email: refusing to grant access, but saying that he would endeavour to provide the Applicants and other residents with further details of condition before work is commenced. He was in the process of preparing documents for tender and hoped to have firm prices soon. The roof had been inspected and would be subject to "further survey" once scaffolding had been erected. The Respondent considered that as the roof coverings were 30 years old, it was cost effective to replace them.

16. Mr. Rule responded by email dated 12th April 2011 saying that the email did not address the points that he had made. He wanted to know the nature and extent of the works before they commence. He was concerned that the works were one of improvement, which would not be permitted under the lease; he was concerned that the roof coverings were only 35 years old, and should not need replacing. Further, by preventing access to the roof it precluded their effective contribution to the consultation process. He explained that he and the second Applicant are Chartered Surveyors of over 70 years experience and collectively they have considerable experience. He again asked for

information concerning roof leaks, the dates and location. He asked for comments on the need for new tiles as the current ones appeared to be in serviceable condition. He asked for a detailed specification of works. He made the point that they were being deprived of the chance of making any detailed contribution to the process in assessing the nature and extent.

17. No response was received to this email - despite chaser emails sent on 28th April and 8th June.

18. On 28th October 2011 the second notice was served, which did not detail the works, but said that two estimates had been obtained from BSG Property Services of £92,802 and Letchworth Roofing £92,924 and that these could be inspected in the next month. In the covering letter it was said that "in order to reduce the costs of the work we intend to re-use existing roof tiles and we have assessed that the flat roof does not require replacement".

19. On 12th November 2011 the Mr. Rule wrote, setting out the history of the correspondence, and said that much of the original work appeared now to be unnecessary and yet the estimated costs remained unchanged. The Applicant emphasised that there was no objection to works being done if they were necessary or reasonable, but the Respondent's reluctance to show that this was so was concerning. The Applicant asked for four pieces of information:

- whether there had been an inspection of the hidden box section rainwater gutters to pitched roof and hopper heads to ascertain their condition;
- had there been any leaks, and if so then where and how many in the vicinity of the box section gutters;
- an explanation as to why he was not allowed to inspect the roof and the report on condition promised on 1st April 2011;
- asked whether the central flat roof section had been inspected and that it would not require replacement in the next 15 years.

20. No response was received to the letter of 12th November 2011, nor the Applicants' chasing email sent on 2nd January 2012, and in which the lead Applicant said that in the absence of a satisfactory answer he would issue an application in the LVT. No response was received to this email.

21. The works started in the week of 23rd January 2012, and were completed by 3rd May 2012 when the Applicant was notified that the

costs were £104,773, and the Applicants' liability was 1/48th, so £2182.78.

22. In summary, Mr. Rule said that from the outset their suspicions were aroused, as roof tiles of 35 years should not need replacement, and it appeared that someone was making use of un-used budget. Their concerns were not addressed at all, and in fact were ignored. They had pointed out and their position remained that they were not opposed to necessary works, if this could be shown to be the case; even now, after the Respondent's limited disclosure, they were not clear about what was done, or why.

23. He asked whether an independent survey was ever done, and whether there is a detailed specification of works. If the only survey done was by contractors, then as they had a vested interest in the matter, it could not be relied on. The photographs which had been produced at the hearing showed box gutters full of debris, and the first thing to do would be to clear them out before jumping to a conclusion that the guttering was defective. The Respondent places emphasis on ponding of water, but this is not a problem – it is the effect of the sun which is the problem. The Respondent relies on poor sarking felt, but this is only a secondary barrier against the rain, and would not be of any relevance if the tiles were effective. There was a reference to the tiles being laid without sufficient overhang – 70mm as opposed to 75mm – and wondered if anyone had spoken to the manufacturers about this. He was concerned that little attention had been paid to ventilation, which could cause condensation which can appear to be leaks, and that some basic wrong assumptions might have been made.

24. The Respondent asked no question of Mr. Rule.

The Respondent's Case

25. The Respondent's case is that the building had repeated roof leaks, shown in the responsive repairs schedule from September 2006 to November 2011; also damp problems were caused by poor ventilation, which gave rise to condensation problems in the roof space.

26 The Respondent started considering major works to the roof as the Respondent had received an email on 11th January 2011 from Barry Thurston, Sales Manager at FSG who said that they had taken down scaffolding before Christmas, there was another leak, and asked why repairs had not been authorised last month. He said that there are re-occurring problems, that the whole roof was "knackered"; the rafters and joists are full of damp and that the insulation is damp. He referred to meetings with Darren Corsby and quoted £1150 plus VAT for scaffolding.

27. In oral evidence Mr. Winslet initially said that no independent survey nor in house survey had been done by the Respondent; he then said that Mr. Corsby had done an inspection whilst the scaffolding was up for minor works on 5th January 2011. He was not in a position to produce a condition survey but relied on the statement of Mr. Corsby, dated 8th October 2012, who was not present to give evidence at the hearing, and whose qualification were not stated.

28. He said that it appeared that water would sit in the box gutter, and fill up behind the tiles, and penetrate the felt, which was wrongly laid as it was lapped over the wrong way. The lining of the box gutter was breaking down, and water was seeping into the parapet. There was no suggestion that there were problems with the tiles themselves – just that they had been laid with insufficient overlap (70mm rather than 75mm). Nor were there problems with the flat roof.

29. Mr. Winslet was passed the job of undertaking the consultation procedure, procuring the tenders, and looking at the quotes, based on the instructions he had received. He had only included replacement of the flat roof and the provision of new tiles in the first notice and explanation, as these were the instructions then given to him. He agreed that these were misleading. He asked the insurers about allowing access to the roof for the Applicants, who refused on safety grounds, but he did not think to ask if the Applicants had their own indemnity insurance. He did not respond to the Applicants other points due to pressure of work. He had asked for a print out of responsive repairs, which would show the history of leaks, but this was not sent to the Applicants until the proceedings commenced, for which he apologised.

30. After notice 1 was served, Mr. Winslet drew up a specification of works, which he produced at the hearing for the first time. At section 1 point 7 it described the works as "renewal of all roof coverings, gutters, and downpipes" and the schedule of works in section 3 was to "strip existing roof coverings, including tiles, batten and felt, ridge and hip tiles, all fixings, and dispose of off site... re-batten and felt in Tyvek breathable membrane". They went out to tender in June 2011 and the feedback received was that the specification was not sufficiently detailed. They worked with the contractors, and looked at systems available.

31. Mr Winslet had inspected the roof from the flat roof, but did not have a condition survey to produce to the Tribunal. He and Mr. Corsby produced a second tender document, (again) produced at the hearing for the first time, which (again) said at section 1 point 7 that it described the works as "renewal of all roof coverings, gutters, and downpipes" and the schedule of works in section 3 was to "take off all roof coverings and associated fixtures to all pitch roof elevations .. strip existing roof covering, including tiles, batten and felt, ridge and hip tiles, all fixings and dispose of... set aside for re-use. Remove Nurlaite

covering to all verges and eaves and dispose of... "re-batten and felt in Tyvek breathable membrane set said de and re-fit existing roof times. .. steel wall capping to all gable and parapet walls.. form new lead gutter behind parapet wall... form new lead flashings".

32. They sent the specification to three companies, BSG, FSG and Letchworth, and each sent out an estimator who went onto the flat roof to assess costs. They chose the lowest quote from BSG. He produced the summary of the tenders, all of which came in very close, but he could not detail how the estimates were broken down. He could not say why the price of the new tenders were about the same as the estimate that was accepted – though the existing roof tiles were to be used and the flat roof would not be replaced – though they were not now comparing like for like, as they were to use a different system for the box gutters. They reduced the price by using aluminium instead of lead, which saved £5000.

33. Mr Winslet could not say that any condition survey was done before the works started, though he himself did go up the scaffolding to have a look, and had taken the photographs which were submitted at the hearing (and in the bundle). He could not say if Mr. Corsby had contacted the manufacturer about the deficient overhang of 5mm, and what effect that was likely to have on the efficiency of the roof.

34. In answer to Mr. Rule's questions Mr. Winslet said that he had not appreciated that Mr. Rule would have been happy to do an inspection from the loft hatch and had assumed that he wanted access to the roof top itself. He appreciated that it was after the first consultation period had ended that the Applicant was told he was refused access, for which Mr. Winslet apologised and said that this was due to pressure of work. He agreed that the first section 20 notice was misleading, agreeing that the whole roof was not deteriorating, and that it was not in as bad a condition as the notice suggested.

35. In answer to question by the Tribunal Mr. Winslet agreed that he did not give sufficient information to Mr. Rule, and whilst still maintaining that he could not give an inspection of the roof his error was not to send an inspection report. They work to strict timescales and he was under enormous pressure of work.

Closing Submissions

36. On behalf of the Respondent Mr. Winslet said that he was instructed to replace the roof coverings, and he was not given adequate detail. There was a long history of problems with the roof. The Respondent does not have the resources to buy-in independent surveyors

37. On behalf of the Applicants Mr Rule said that his position was not entrenched; they were not opposed to the works if they were necessary, and they were just seeking reassurance. It was in their

interests to get the works done if they were really required. Initially they were told the whole roof was being replaced – which would cause anyone concern – not least a surveyor with some knowledge of this field. He wanted reasonable communication - but there was no communication at all. He thought that the works might well have been necessary, but no information was forthcoming. The comment made in the statement of Mr. Winslet that "as a gesture of goodwill" he would release a survey, was never done.

Costs and Reimbursement

38. Mr. Rule asked that the Respondent's costs not be added to the service charge account and that his costs of £250 be reimbursed. Mr. Sapia said that the costs would not be added to the service charge account, and that if the case went against them then they would reimburse the Applicants costs.

39. At the end of the hearing the Tribunal reserved its decision.

Findings of Fact

40. The aim of the statutory consultation procedure is to provide a clear and transparent explanation to the lessee of the works which the lessor intended to do, so that the need for the works are clear, the costs of the works are clear, and that where the lessee has made observations, these have been considered by the lessor.

41. In this case although the lessor did serve notice on the lessee, the consultation process:

> (a) commenced with a misleading statement of the landlord's reasons for considering it necessary to carry out the proposed works, which were stated to be much more extensive than the Respondent had believed necessary, and
> (b) failed to have any regard at all for the lessee's pertinent observations.

Failure to accurately state the reasons for works

42. It is apparent from the schedule of responsive repairs that there were problems with leaks to the roof between 2006 to 2011. Despite this no independent condition survey was commissioned by the Respondent of the roof to seek to identify exactly what were the problems, despite the lease permitting recovery of costs incurred in doing so. Mr. Winslet's evidence was somewhat ambivalent about whether or not an in-house survey had been undertaken, and his final position was that Mr. Corsby did a survey on 5th January 2011, as set out in his witness statement. If that was so it does not appear that Mr. Corsby's survey can have been made available to Mr. Winslet when he started the consultation procedure because although Mr. Corsby made no mention of the need

for a new flat roof, or that the tiles covering the four pitched roofs needed replacement, this formed the basis of notice 1. Further, Mr. Corsby's assessment made no mention of ventilation problems about which Mr. Winslet gave evidence at the hearing.

43. Rather it appears that Mr. Winslet had an email dated 11th January 2011 from FSG which overstated the problems by saying that the whole roof was "knackered", and that the rafters and joists were full of damp. Mr. Winslet's evidence was that there was a lot of knowledge in the technical department about this roof, but none of this appeared to be distilled into a reliable condition report.

44. When the brief was passed over to Mr. Winslet to start the consultation process, he was told that the whole roof should be replaced. This he repeated in the reasons given for the Respondent's decision (in compliance with Schedule 4 Part 2 (2)(b) of the 2003 Regulations) when it was said that the "existing roof coverings and rainwater goods have started to break down". Mr. Winslet now accepts that this explanation is misleading – as the flat roof did not need replacing, the roof tiles (which covered most of the roof) did not need replacing, and it was only the box guttering which needed replacing.

45. The Tribunal finds that the Respondent had failed to discharge its statutory obligation to "state the landlord's reasons for considering it necessary to carry out the proposed works". It is implicit that the Landlord must give honest reasons and not misleading ones. Whilst the Tribunal does not find that the Respondent was seeking to deliberately mislead, the statements were made without any care or any considered assessment. This appears to have arisen from the absence of a proper detailed survey.

Regard for the Lessee's Observations

46. Unsurprisingly, on receipt of the notice and accompanying letter Mr. Rule asked questions about it by letter dated 8th February 2011. He made the point that the roof was only 35 years old and the roof coverings appeared from a ground floor inspection to be fine. He asked about whether surveys had been done. He said that there appeared to be limited information available. He asked entirely sensible questions which a Surveyor - and an informed lay person - would ask. He asked for the chance to inspect the roof, so that he could provide the names of contractors.

47. Aside from an email acknowledging the letter, the Applicants received no substantive response. On 1st April 2011 the Respondent said that access to the roof would be denied, but suggested that this could be remedied because in due course a "further survey" would be produced and provided. Mr. Winslet said that they could justify replacing the roof coverings now because scaffolding costs were high.

48. In short, Mr. Rule's reasonable points were simply ignored.

49. Whilst the Tribunal accepts that giving access to the roof for many lessees would be ill-advised this could hardly be said of two Chartered Surveyors who would have their own indemnity insurance. As the Respondent was content for the Tribunal to inspect, and for all manner of contractors to do so, it does not accept the denial of access in this instance, as reasonable. The denial of access to the roof would have been justifiable had there been a comprehensive survey which had been committed to writing and served on the lessee.

50. As the chronology bears witness, the points made by Mr. Rule had force. He was concerned that these works were being done without sufficient thought and clarity of purpose. It was only by the end of the hearing that the Tribunal began to hear some evidence which could justify why works were needed.

51. Our assessment of Mr. Rule's position was as he stated it to be: he was not opposed to works, indeed it was in his interests for necessary works to be carried out; he was just concerned that the works were being done without proper thought and consideration, or any scrutiny of what the costs were.

52. In short, had the Respondent had regard to Mr. Rule's points it may well have modified the works done, reduced costs, or appointed a different contractor. It may have considered whether the costs were all recoverable as repairs, or whether some were irrecoverable as improvements.

53. The Tribunal finds that the consultation process has failed in two material respects, and so recovery from the Applicants by the Respondent is limited by virtue of section 20(1)(a) of the 1985 Act, to £250.

Costs and Fees

54. The Respondent agreed that it would not seek to add to the service charge account the costs of responding to the proceedings. In any event the lease does not allow it, and alternatively the Tribunal would not have allowed it.

55. The Applicant has incurred the costs of bringing the proceedings, which - for the reasons provided above - entirely lay with the Respondent. The Respondent will therefore reimburse the Applicant for those costs.

Joanne Oxlade

Lawyer Chairman

21st January 2013

Appendix A

General Jurisdiction

The 1985 Act as amended by the Housing Act 1996 and the Commonhold and Leasehold Reform Act 2002 provides as follows:

Section 18

"(1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling house as part of or in addition to the rent –

(a) which is payable directly or indirectly for services, repairs, maintenance, improvement or insurance or in the landlord's cost of management, and
(b) the whole or part of which varies or may vary according to the relevant costs.

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord or a superior landlord in connection with the matters of which the service charge is payable.

(3) For this purpose

(a) costs include overheads, and
(b) costs are relevant costs in relation to a service charge whether they are incurred or to be incurred in the period for which the service charge is payable or in an earlier period.

Section 19

(1) "Relevant costs shall be taken into account in determining the amount of a service charge payable for a period –
    (a) only to the extent that they are reasonably incurred; and
    (b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard; and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 27 A

(1) " An application may be made to a leasehold valuation tribunal for a determination whether a service 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) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to a leasehold valuation tribunal for a determination whether it costs were incurred for service, repairs, maintenance, improvements, insurance, or management of any specified description, a service charges would be payable for the costs and if it would 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.

(4) 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.
(b) .....

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

<u>In respect of consultation</u>

Section 20

"(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with this subsection (6) or (7) (or both) unless the consultation requirements have been either –

(a) complied with in relation to the works or agreement, or
(b) dispensed with in relation to the works or agreement by (or on appeal from) a LVT"

Section 20ZA

(1) "Where an application is made to a LVT for a determination to dispense with all or any of he consultation requirements in relation to any qualifying works or qualifying long term agreement, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements."

Service Charges (Consultation etc) (England) Regulations 2003 ("the Consultation Regulations")

Regulation 7(4)

"Except in a case to which paragraph (3) applies, and subject to paragraph (5) where qualifying works are not the subject of a qualifying long term agreement to which section 20 applies, the consultation requirements for the purpose of that section and section 20ZA, as regards those works –

(a) in a case where public notice of those works is required to be given are those specified in part 1 Schedule 4;
(b) in any other case, are those specified in Part 2 of the Schedule

Schedule 4 Part 2

Notice of Intention

"1(1) The Landlord shall give notice in writing of his intention to carry out qualifying works –
(a) to each tenant..
(2) The notice shall –
(a)describe in general terms the works proposed to be carried out or specify the place and hour at which a description of the proposed works may be inspected;
(b) state the landlord's reasons for considering it necessary to carry out the proposed works;

.....

Duty to have regard to observations in relation to proposed works

10. Where, within the relevant period observations are made in relation to the proposed works by any tenant or the recognised tenants' association, the landlord shall have regard to those observations".

In respect of Costs

Section 20C

"(1) A tenant may make an application for an order that all or any of the costs incurred or to be incurred by the Landlord in connection with the

proceedings before .. the LVT.. are not 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.

(3) The ...Tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances."

In respect of Fees

Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003

Regulation 9 (1) provides:

"Subject to paragraph (2), in relation to any proceedings in respect of which a fee is payable under these Regulations a Tribunal may require any party to the proceedings to reimburse any other party to the proceedings for the whole or part of any fees paid by him in respect of the proceedings"