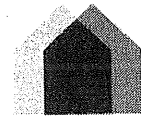


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LONDON LEASEHOLD VALUATION TRIBUNAL

Case Reference: LON/00AS/LSC/2012/0188

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER:**

- (1) SECTION 27A OF THE LANDLORD & TENANT ACT 1985**
- (2) SECTION 24 OF THE LANDLORD & TENANT ACT 1987**

Applicant: Griffiths Court Associates Ltd

Respondent: Mr Sandhu

Property: Griffiths Court, 56 Nestle Avenue, Hayes, Middlesex, UB3 4QB

Date of Hearing 10-11 January 2012

Appearances

Applicant

Mr Pain Counsel

Respondent

Mr Sandhu Leaseholder

Leasehold Valuation Tribunal

Mr I Mohabir LLB (Hons)
Mr C P Gowman MCIEH MCMi BSc
Miss J Dalal

Introduction

1. The two applications that fell to be considered by the Tribunal were:
 - (a) by Griffiths Court Associates Ltd (by reason of the transfer of County Court proceedings), as Applicant, under section 27A of the Landlord and Tenant Act 1985 (as amended) for a determination of the Respondent's, Mr Sandhu, liability to pay and/or the reasonableness of estimated service charges for the period 1 July 2008 to 31 December 2011 totalling £2,275. The Applicant also sought a determination under Schedule 11 of the Commonhold and Leasehold reform Act 2002 that an administration fee of £120 incurred in seeking to recover the service charge arrears was also payable and reasonable.
 - (b) a cross-application by Mr Sandhu, as Applicant, under section 24 of the landlord and Tenant Act 1987 (as amended) for the appointment of a Manager in respect of Griffiths Court, 56 Nestle Avenue, Hayes, Middlesex, UB3 4QB.
2. For the reasons given below, it is not necessary to set out the factual background that gives rise to both applications and the statutory basis upon which the Tribunal can determine those applications.
3. It is sufficient to note that Griffiths Court Associates Ltd is the freehold owner of Griffiths Court and that Mr Sandhu is the lessee of Flat 2 in the property, which is a purpose built block of 6 residential flats. Each of the lessees is both a shareholder and Director of the landlord company.

Hearing and Decision

4. The hearing in this matter took place on 10 and 11 January 2013. The landlord company was represented by Mr Pain of Counsel. Mr Sandhu appeared in person and was variously assisted by his mother and sister.

5. With the assistance of the Tribunal, the parties were able to reach a compromise in relation to both applications on the terms set out in the orders annexed hereto. The only live issue that remained for the Tribunal to determine was the application made by Mr Sandhu under section 20C of the 1985 Act in respect of the landlord's costs incurred in relation to the two substantive applications.
6. Essentially, under section 20C, the Tribunal can make an order disentitling a landlord from being able to recover all or part of any costs it may have incurred in proceedings such as these where it is just and equitable having regard to all the circumstances.
7. The Tribunal carefully considered the submissions made by the parties and it also had regard to the documentary evidence contained in the hearing bundle. It was abundantly clear to the Tribunal that a complete breakdown in trust between the parties had occurred largely as a result of Mr Sandhu's numerous requests for information over a number of years in relation to service charge and company expenditure and his assertion that the landlord refused to provide the information, which was strenuously denied. This resulted in personal animosity between Mr Sandhu and various Directors of the company and led to a degree of intransigence on both sides. Regrettably, this conduct continued in the course of these proceedings and required the assistance of the Tribunal to compromise the applications.
8. The Tribunal considered each application in turn. As to the section 27A application, Mr Sandhu withheld payment of the sum in issue on the basis that the landlord company had not provided:
 - (a) a summary of rights and obligations required by section 21B of the 1985 Act.
 - (b) a summary of costs following demands made pursuant to section 21 of the 1985 Act.

- (c) a failure to provide some/any certified accounts as required by the lease in relation to each of the relevant service charge years.
- (d) a failure to provide any/adequate explanation regarding alleged discrepancies in the actual service charge and company expenditure.
- (e) the application of section 20B of the 1985 Act in respect of the 2008 and 2009 service charge years.
- (f) the reasonableness of various items of actual service charge expenditure in each of the relevant years.

9. In his own statement of case, Mr Sandhu accepted that he had been provided with the requisite information under section 21 generally of the 1985 Act had been provided by the landlord at the time the estimated service charge demands had been served. He accepted the explanation that his lease obliged him to pay an estimated service charge amount to the landlord on demand, which was in fact the total sum in issue. No additional amounts were being sought from him. He also accepted the explanation that his requests for (further) information regarding service charge expenditure concerned the actual expenditure incurred and was not strictly relevant as to his contractual liability to pay the estimated sums demanded on account. He eventually conceded that the legal and contractual challenges set out above made by him were in fact misconceived.
10. Consequently, the landlord company had been entitled to commence debt recovery proceedings in the County Court to recover the arrears. It had been put to the time and expense of conducting lengthy litigation to answer a case it had not been required to meet. Accordingly, the Tribunal considered it just and equitable that the landlord company should be entitled to recover its costs in relation to the section 27A application and it made no order in relation to this application.
11. Turning to the section 24 application, the Tribunal was satisfied that this had been made primarily because of the lack of good faith and trust on both sides. It was

clear that there had been a number of material management failures including the failure to prepare service charge accounts for the years 2007 and 2008 and the (admitted) failure to carry out statutory consultation under section 20 of the 1985 Act regarding the installation of security gates. These failures alone provided a sufficient basis for making the application. The Tribunal also accepted the assertion made by Mr Sandhu that the landlord company had also failed to constructively engage with him in the course of these proceedings (and pursuant to the Tribunal's direction) to agree a possible manager. When viewed in the context of the obvious apparent mistrust and animosity between the parties, the possibility of agreeing anything was so remote as to be discounted altogether.

12. The Tribunal, therefore, concluded that the section 24 application had been made with some justification by Mr Sandhu and that had the landlord made greater efforts to constructively engage with him regarding the appointment of another manager or the continued appointment of the present managing agent, both the application and the hearing may have been avoided. Accordingly, the Tribunal considered it was just and equitable to make an order under section 20C of the 1985 Act that the landlord company shall not be entitled to recover any of the costs it had incurred in relation to the application made under section 24 of the 1987 Act.

Dated the 31 day of January 2013

CHAIRMAN.....

Mr I Mohabir LLB (Hons)