



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **LON/00BH/LSC/2014/0238**

Property : **264 Old Church Road, Chingford,
London E4 8BT.**

Applicant : **Ms. T. Ellis**

Representative : **In Person**

Respondent : **Avon Estates Limited**

Representative : **Mr. I. Moskowitz
Mr. J. Gurvits**

Type of Application : **Determination of liability to pay
service charges.**

Tribunal Members : **Aileen Hamilton-Farey**

Date of Decision : **8 August 2014.**

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that the insurance premiums claimed by the respondent are unreasonable as to cost.
- (2) The Tribunal determines that the sum of £256.03 in relation to the insurance premiums charged for the years in question and in relation to this maisonette would be reasonable and payable by the applicant.

Background:

- (3) The Tribunal received an application under S.27a of the Landlord & Tenant Act 1985 (“the Act”) for a determination of the reasonableness and payability of insurance premiums as part of the Applicant’s service charge for the years 2013 – 2015 inclusive.
- (4) It is not disputed between the parties that the lessee is liable to pay insurance premiums, the application relates solely to the reasonableness or otherwise of the premiums charged by the Respondent.
- (5) At the hearing Ms. Ellis represented herself and Mr. J. Gurvits represented the Respondent for part of the hearing, and was joined by Mr. Moskowitz following which they jointly presented the Respondents’ case.

The Applicant’s Case:

- (6) Ms. Ellis said that the insurance premiums for her property were too high and that she had been able to obtain cheaper comparative quotations from both internet searches and also from approaching the landlords’ own insurers, Axa.
- (7) In her application she said that the demand for insurance premium for 2013/14 was £4,557.99 in relation to 7 flats, although the block contained 12. This premium equated to £651.14 per lessee (based on 7 units). For 2014-15 the premium was £4,881.03 equating to £697.29 per lessee on a similar basis. She requested that, given the insurance arrangements in place, the lessees should be given an opportunity to ‘opt out’ of the landlords’ insurance and obtain their own. Accompanying the application were quotations she had researched online from three companies. Ms. Ellis drew the Tribunal’s attention to the fact that the premiums quoted related to all of the buildings and not just the 7 within the landlord’s policy.

Quoteline	NIG	Sterling
£1,590.27	£1,587.15	£2,112.37
£132.52 per unit	£132.26 per unit	£176.03 per unit

- (8) Having received the landlord’s statement in reply, Ms. Ellis then obtained further quotations which were included within her bundle

and further documents which were handed up at the hearing. In the further quotations she had specifically requested that the insurance cover be extended to properties that were let, and not owner-occupied and included occupiers whose rent was payable by a Local Authority, ("DSS tenants"). She had also obtained quotations based on the revised sum assured as indicated in the landlords' bundle.

- (9) As part of her evidence Ms. Ellis submitted a quotation from Axa the landlords' own insurers, which although not entirely like-for-like was similar and at a lower premium. Following the disclosure of this document to the landlords, Axa were approached and confirmed that their 'Flats' policy was not identical to the block policy operated by the landlord, but nevertheless proposed that these properties be removed from that block policy, with the effect that a reduced premium was payable. The credit for the two years in question had been passed onto the lessees.
- (10) In her bundle, Ms. Ellis exhibited the quotation from Axa and the proposal form; this showed that she had included DSS tenants and sub-let properties as well as the usual owner-occupiers. She had used a sum insured slightly less than that originally used by the landlord, but Axa had confirmed to the agents that they would apply the reduction in premiums.
- (11) It was noted that this Axa quotation related to a block of 12 units with a premium payable of £3,072.41, and thus equating to £256.03 per flat. It would therefore appear that the reduction given by AXA to the landlords in respect of the insurance remains not comparable with the premiums quoted to Ms. Ellis.
- (12) Ms. Ellis had also sought quotations for just her own property and again using the landlords' policy details, sum assured etc, and with a clause covering lettings to DSS tenants. She provided quotations from:
 - City Landlord Insurance - £136.48
 - Discount Insurance - £152.85
 - CIA to Let Insurance - £366.90 (most expensive)
- (13) Ms. Ellis used all of the quotations to demonstrate that, in her opinion, the landlords' insurance premiums were excessive and that alternatives could be obtained more cheaply not just for the lessees but for the block in general. She again stated that the lessees would like to arrange their own insurance for the future.

The Respondents' Case.

- (14) Mr. Gurvits and Mr. Moskowitz on behalf of the Freeholder produced an up to date rebuild valuation prepared by Cardinus Risk Management, in relation to the 7 maisonettes. In their opinion the rebuilding cost of the units was £1,029,262 and on obtaining this information the landlords had again approached Axa and obtained a further reduction in premium to £3,946.31, with a further credit being applied to the leaseholders' accounts.
- (15) Mr. Moskowitz informed the Tribunal that the landlord did not receive any commissions on the policy, and that it insured the remaining 5 units separately under a policy, also with Axa, but as part of the landlords' mortgage conditions. He also explained to the Tribunal that the landlord's policy has the widest wording possible so as to allow for any type of tenant occupier, including DSS and leaseholders on the basis that the lease provided no means by which the landlords could restrict sub-letting. In that case, he said that the risk of letting to a wide range of tenant increased the premiums. He also said that leaseholders were always the first to raise a claim and this increased the overall premiums.
- (16) With respect to the subletting issue, Mr. Moskowitz informed the Tribunal that Ms. Ellis sub-let her flat to DSS tenants and Ms. Ellis confirmed this to be the case, although she did say that she was the only lessee subletting in her part of the block.
- (17) He also stated that he did not consider the comparables provided to be actually comparable, in that originally those relied on when the application was made, made no reference to DSS tenants (although that has subsequently been corrected), and also were not on a like-for-like basis.
- (18) He reiterated that the landlord was not making any profit from the insurance and was just passing on the premiums it was charged. He also said that the landlord was required to pay the premium immediately on renewal of the policy, whilst the lessees were given an opportunity to pay monthly, which was not something that an insurer would usually allow. He alluded to the fact that some of the lessees have not paid their insurance premiums, even though the landlord had had to renew the cover and pay the premium itself, and that if the lessees were allowed to insure for themselves, then this could cause problems if some failed to pay their premiums on time. He did however appear to be open to suggestions that the parties should meet to discuss the lessees taking out insurance for their units themselves.

Generally:

- (19) In coming to my decision, I would say that the insurance arrangements on these buildings are somewhat unusual. They comprise a series of what appear to be purpose-built maisonettes

dated from the turn of the 20th Century, over two floors, with one pair of semi-detached maisonettes adjacent. The tenancy types are mixed throughout the buildings, so that the landlords' rented properties are adjacent/under/above leaseholders' properties. For example No. 264 (leasehold) is above/below a rented unit No.266; 268/270/272 is adjacent/above/below to No. 274 and 276 which are owned by the landlord; and finally 278; 282 and 284 are adjacent/above/below 280 and 286 which are again owned by the landlord.

- (20) It is not clear therefore what would happen in the event of complete loss, as there are effectively two insurance policies (albeit with the same company) on the properties, and one could see problems with the apportionment of claim proceeds between lessees and the landlord. However, both parties were aware that there had been claims against the lessees' policy and there had not been any problems with the insurers.
- (21) In addition the lease requires insurance to be procured in respect of each 'building', which according to the lease provided to me for No. 264 relates to No 262 and 264 as a pair of maisonettes. I must assume that the insurance arrangements under the leases are the same for all units as would be logical in buildings such as these, and therefore it appears that the landlords are not insuring in accordance with the lease covenants. This was not discussed during the hearing, and I therefore sought representations on the effect that this might have. The respondents subsequently provided evidence of the insurance to one of their own units, and correspondence that confirmed there was not a detrimental effect on the insurance by having it procured in the way it was. However I note from the certificate of insurance provided by Reich, the landlords' brokers that the premium in respect of No. 262 was £520.73, in February 2014, which was over £100 less than that charged to the lessees for what effectively was the same cover.
- (22) These insurance covenants in the lease give some strength to the lessees request that they are entitled to insure separately, especially where two units are in leasehold ownership (268/270), but that is a matter outside the jurisdiction of this Tribunal and for discussion between the parties.
- (23) I am not satisfied that the insurance arrangements are reasonable. Whilst I am mindful that a landlord is not obliged to obtain the cheapest insurance, it does appear from the Axa quotation produced by Ms. Ellis that the insurance for all of the buildings could be purchased at a figure less than the premiums being charged by the landlord to the lessees in respect of their 7 units.
- (24) Using the Axa quotation it appears that the landlords could obtain insurance for the whole block, on terms very similar to those of the

current policy, including lettings to DSS tenants, lessees and anyone else, with a similar sum assured and cover, for £3,072.41 or £256.03. Whilst this is higher than the majority of quotations obtained by Ms. Ellis, I do not consider that those had been obtained on a like for like basis. I also take into consideration that often with internet searches on comparison websites that it is not until the final insurance proposal form is submitted and accepted that the premium is crystallised.

- (25) In my opinion, the Axa quotation is the most appropriate comparable and therefore their quotation is the most useful, when coming to a decision.
- (26) I find that the Axa quotation is comparable and the premium quoted a reasonable alternative to that charged by the landlord, and would benefit not only the lessees but also the landlord by way of a further reduction in premium.

Aileen Hamilton-Farey

12th August 2014