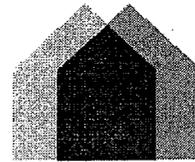


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LON/00AW/LSC/2006/0030



Residential
Property
TRIBUNAL SERVICE

**DECISION BY THE RESIDENTIAL PROPERTY TRIBUNAL SERVICE IN
THE LEASEHOLD VALUATION TRIBUNAL LONDON RENT
ASSESSMENT PANEL
LANDLORD AND TENANT ACT 1985 Section 27A**

Applicant: Orchidbase Ltd

Represented by: Altermans Solicitors

Respondent: Ms Janet Larsen

Represented by:

The Tribunal: Miss L M Tagliavini BA (Hons) DipLaw LLM

Date of Hearing: 18TH July 2006

Date of Decision: 5th August 2006

First Floor Flat
121 Beaufort Street,
London SW3

1. By an order dated 20/1/06 made by District Judge Fraser at the request of the Respondent, a claim for unpaid service charges in the sum of £150 for the year 2005, was transferred for determination by the LVT pursuant to section 20 Landlord and Tenant Act 1985. The Applicant is Orchidbase Limited, the freeholder of the subject premises and represented by Ms Cherriman of Michael Richards & Co, its managing agents. The Respondent is Ms Janet Larsen the long leaseholder of the first floor flat.
2. The subject premises comprise of a flat on the first and second floors of a terraced house converted into three flats. By clause 3(iii)(b) of a lease dated 20/5/77 for a term of 99 years from 29/9/76 at a yearly rent of £75.00, the Respondent is required to pay the sum of £150 per annum (or such other sum as the Lessor may reasonably require) on the 25 December of each year in respect of the 'Maintenance Charge' as defined in the lease. The Applicant now seeks payment of £150 (Maintenance Charge) for the service charge year 2005 payable in advance, for which a final reminder was sent by letter dated 16/6/05 together with a demand for payment of costs of £564.19 and interest.
3. At the hearing of the application, Ms Cherriman appeared for the applicant landlord. Ms Larsen appeared in person. It was conceded by Ms Cherriman that

the £150 claimed by the Applicant was now in fact paid as evidenced by a nil balance showing on an invoice dated 6/3/06. However, the Respondent remained anxious for there to be a determination by the Tribunal on the reasonableness and payability of that sum. Although Ms Larsen raised the question of outstanding works of repair to her flat likely to cost in the region of £8,400 the Tribunal were unable to determine this issue as; (i) there was no application made in respect of these works that it could consider, and (ii) there was no jurisdiction to consider what effectively would be a claim for damages for disrepair by Ms Larsen.

4. In her evidence to the Tribunal, Ms Cherriman stated that the current managing agents had only taken over the management of the subject property in late 2004, a fact notified to the Respondent in a letter dated 29/4/05. They had inherited a rather chaotic situation left by the previous managing agents which they were now trying to rectify. Although Ms Cherriman accepted Ms Larsen was not in arrears of service charge payments, she maintained that the costs sought were payable under the Fourth Schedule of the lease having conceded that they did not fall to be paid under clauses 3(ix) (a)(b) as originally pleaded in the claim form. These costs were made of solicitor's fees in considering and preparing the county court claim as set out in the Breakdown of Costs provided by the Applicant. On questioning by the Tribunal, Ms Cherriman accepted that the managing agents had a fairly rigid structure in dealing with lessees' arrears of rent or service charges and that after certain procedures had been followed and a final reminder sent court proceedings would almost always automatically follow. Ms Cherriman also accepted that the ground rent was paid directly by the lessees to the freeholder and

the insurance premiums to the insurance provider. As yet no final accounts for the service charge year 2005 had been produced but were said by her to be imminent.

5. In her evidence Ms Larsen told the Tribunal that she did not feel that any sums should be payable as the managing agents had done nothing at all for the service charge year in question and repairs to her flat and externally, remained outstanding. Despite having requested in writing for an explanation of the sum demanded, no coherent response had been received before she was faced with the county court proceedings. Ms Larsen also stated that if the service charge demanded was determined not to be payable, then the legal costs sought by the Applicant should also not be allowed.

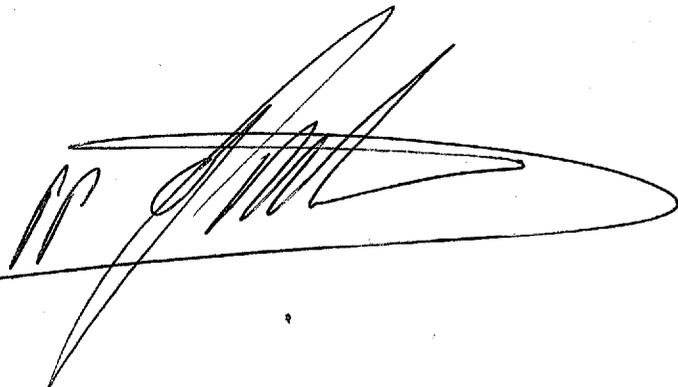
The Tribunal's Decision

6. The Tribunal determines that the sum of £150 as demanded by the Applicant is payable under the express terms of the lease; *clause 3(iii)(b)*. Further, the Tribunal finds that this sum is reasonable in the circumstances as the managing agents have and are entitled to write letters in answer to queries raised by lessees, produce service charge statements and statements of account as part of their management responsibilities. Consequently, the Tribunal determines that the sum claimed by the Applicant in the sum of £150 is both reasonable and payable by the Respondent.

7. However, the Tribunal was somewhat dismayed by the heavy handed approach taken by the Applicant in seeking payment of this relatively small sum and the excessive costs incurred as a result and representing nearly four times the original sum. Although the Tribunal determines that the legal costs associated with the collection of the Maintenance Charge are in the usual course payable by the Respondent pursuant to clause 4 of the Fourth Schedule, the Tribunal is of the opinion that those costs must be 'reasonable'. In this case the Tribunal is of the opinion that the legal costs claimed by the Applicant are not reasonable but are grossly excessive set against the arrears sum claimed. Had the Applicant had a more flexible and personalised approach to Ms Larsen's genuine queries and complaints, these proceedings could and should have been avoided. Therefore, the Tribunal determines that the costs claimed by the Applicant (both in the pleadings and by implication the costs of issuing the claim) are unreasonable and are not payable by the Respondent. Finally, the Tribunal determines that having regard to all the circumstances and the repeated offers and willingness to go to mediation shown by the Respondent, that pursuant to section 20C Landlord & Tenant Act 1985 the costs of these proceedings before the LVT should not be added to the service charge.

Chairman: LM Tagliavini

Dated: 5th August 2006

A large, stylized handwritten signature in black ink, appearing to be 'LM Tagliavini', is written over the signature line. The signature is highly cursive and loops around the text.