

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
LONDON RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**



Section 27A Landlord and Tenant Act 1985

Application for a determination of liability to pay service charges

DECISION AND REASONS

Case Number: CN1/00HG/LSC/2007/0057

Property: 84 Wilton Street Plymouth Devon PL1 5LU

Applicant : CHRISTINE H. ROBERTSON

Respondent : PATRICIA W. THOMPSON

Date of Application: 19th June 2007

Date of Hearing: 6th September 2007

Appearances: Mr. ROBERTSON (the Applicant's representative)
Mrs. THOMPSON (the Respondent)

Witnesses: None

In Attendance: Mrs. Tracey Williams (clerk)

Tribunal Members: Miss Cindy A. Rai (LLB) Chairman
Mr. E. G. Harrison FRICS (Valuer Member)
Mr. J. B. Tarling MCMI (Lawyer Member)

Date of Decision:

4th October 2007

SUMMARY OF DECISION

- 1 At the hearing following a brief resume by Mr. Robertson of the Applicant's case the Respondent agreed that she would pay the outstanding sums due for the Service Charge year 2007. As the Respondent agreed to pay the amount claimed by the Applicant the Tribunal has no jurisdiction to make a determination.

BACKGROUND

- 2 The Applicant, who is the freeholder of the building of which the Property forms a part, applied to the Tribunal on the 19th June 2007 under section 27A of the Landlord and Tenant act 1987 as amended ("the Act").to determine the liability of the Respondent to pay her share of the service charge invoiced on account of the sums which the Applicant anticipated would be spent on the building in the current service charge year (ending 31st December 2007)

PROCEDURAL MATTERS

- 3 Directions were issued by Mr. J. S. McAllister on the 25th June 2007 requiring the parties to exchange their statements of case and setting a target date for the hearing of the 6th September 2007
- 4 The application was heard on the 6th September 2007. Prior to the hearing the Tribunal inspected the Property in the company of their clerk and Mr Robertson on behalf of the Applicant and the Respondent. The Property is not occupied by the Respondent but let to a tenant but the tenant had given access to the

Respondent to enable the Tribunal to inspect both the interior and exterior of the Property. The Applicant has sold the other flat in the Building which it appears is occupied by the owner of the leasehold interest in that flat.

- 5 84 Wilton Street is a mid terraced two storey property set back from the road in slightly elevated position. The building is divided horizontally into two flats. At the front is a small garden. Access to the property is gained via a communal front door. A staircase provides access to the first floor flat which comprises a lounge at the front, a bedroom which looks out on the rear garden and parking area and a kitchen which opens out on to a first floor patio areas from which steps lead to the rear garden which is divided into separate areas serving each of the two flats. Behind the gardens and divided by a wooden fence and door are two parking spaces (one belonging to each of the flats) and leading on to the rear service lane.

The Tribunal inspected the rear fence which had recently been replaced and also the front door which was replaced last year

THE HEARING

- 6 At the hearing the Mr Robertson in response to a request for comment further on the Applicant's statement of case Mr Robertson said that the Applicant had used her best endeavours to estimate the current year's service charge in accordance with the lease provisions. It had been difficult to obtain estimates for the work that she anticipated would need to be done to replace the rear fence which divided the rear garden from the parking area. He understood that the Respondent had commissioned a survey of the common parts of the building which the Applicant believed it would be beneficial to share with her.

- 7 In response the Respondent indicated after a few further questions that she was not really disputing either the amount of the Administration Charge or the estimated service charge. She referred to the 11th Schedule to the Act and the Tribunal clarified that that referred solely to Administration Charges which were defined as being charges paid inter alia for the grant of approvals and other such matters as therein defined whereas the charge which she had queried was actually a management charge; i.e. an item of service charge and not an administration charge
- 8 The Respondent then conceded that she had no issue with regard to the estimated amount of the service charge. Her original objection was on account of having not being provided with full information notwithstanding that the wording of the lease does not oblige the freeholder to do this.
- 9 The Respondent then agreed to pay for the fence and to pay the Applicant's "management charge". As the Applicant and the Respondent had reached agreement the Tribunal no longer had jurisdiction to decide upon the application. Subsequently the Applicant's Representative produced a copy of what appeared to be an invoice for the fencing work crediting £395 against the original bill of £495 and leaving only a balance of £100 to be paid. It was explained that this credit had been obtained because the Applicant had been unhappy with the quality of the work. As he had only one copy of this invoice this was shown to the Tribunal and the Respondent and the original invoice was returned to the Applicant's Representative

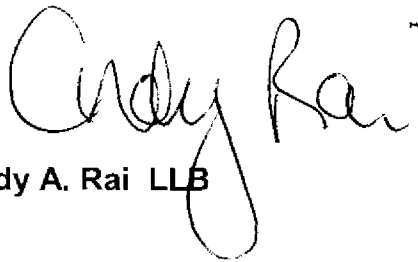
THE LAW

- 10 The statutory provisions relevant to this application are contained in sections 18, 19 and 27A of the Landlord and Tenant Act.1985.

The jurisdiction of the Tribunal to determine an application is contained in section 27A pursuant to which the application was made but since the Respondent has agreed that the outstanding service charge is due the Tribunal has no jurisdiction to determine this application. In particular Section 27A (4) provides that no applicationmay be made in respect of a matter has been agreed or admitted by the Tenant.

SUMMARY

- 11 On the basis of the agreement by the Respondent following the presentation of Applicant's case the parties agreed depriving the Tribunal from having jurisdiction to determine the application.

A handwritten signature in black ink that reads "Cindy Rai". The signature is written in a cursive style with a large, looping initial 'C'.

Cindy A. Rai LLB

Chairman

04 October 2007