

SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL

Case No: CHI/OOHN/LSC/2007/0067

BETWEEN: PPLP Estates Limited (Applicant/Landlord)
- and -
Mr S F Dadak (Respondent/Lessee)

PREMISES: Flat 6 Park Lodge
7 Adeline Road
Boscombe
Bournemouth BH5 1EE

TRIBUNAL: Mr A J Mellery-Pratt FRICS (Chairman)
Mr D Agnew LLB,LLM

REASONS

1. The Application

- 1.1 On 10th July 2007, on behalf of the freeholder, the managing agent made application to the Tribunal for a determination as to the reasonableness of service charges demanded in respect of Flat 6 Park Lodge, 7 Adeline Road, Boscombe, Bournemouth (the premises) under Section 27A of the Landlord and Tenant Act 1985.
- 1.2. The service charges in dispute related to demands for the years 2005, 2006 and 2007.

Inspection

At 10.00 a.m. on the 6th September 2007, the Tribunal inspected the exterior of the Property.

General

At the Inspection the Tribunal was informed that the Applicants had been advised the previous day that the Respondent had paid all the outstanding monies by Bankers Draft. However, the Applicants had been unable to confirm that payment had been received.

Accordingly, the Tribunal determined that the Hearing should proceed and the Respondent, who had not been present at the inspection, was advised accordingly.

Hearing

The Tribunal convened in Function Room 2 at The Lighthouse, in Poole, at 11.30 a.m.

Miss Zrihen, for the Applicant, and Mr Dadak in person, were present.

Miss Zrihen advised that she had now received confirmation that the cheque for £3,252.86 had been credited to the Applicants' account.

She also advised that this total included amounts in respect of :-

Fees

Application fee	£100.00
Hearing fee	<u>£150.00</u>
	<u>£250.00</u>

Costs

Administration cost	£175.00
Photocopying	£ 47.80
Postage	<u>£ 25.45</u>
	<u>£ 248.25</u>

Miss Zrihan confirmed that the Applicants wished to withdraw the Application, but requested that they be reimbursed in respect of the fees paid for the Application and Hearing, and the costs involved in connection with the preparation of the papers for and attendance at the Hearing.

The basis for this request was that it was not reasonable for the Respondent to pay the monies due only the day before the Hearing, but after Banking hours. This had, of necessity, involved the Applicants' representative travelling to Bournemouth and she confirmed that she had left at 6.30 a.m. that morning. She claimed 8 hours @ £50.00 per hour, totalling £400.00, together with preparation costs of £175.00.

Mr Dadak advised that he had struggled to collect enough money to settle the account and accepted that the Applicant had incurred costs.

Decision

The Tribunal accepted that the application had been withdrawn but considered the comments made by the parties with regard to fees and costs.

Under the Commonhold and Leasehold Reform Act 2002, Schedule 12, the Tribunal has discretion to determine responsibility for fees and limits the amount to £500.00 in each case.

Schedule 12

9. *Fees*

- (1) *Procedure regulations may include provision requiring the payment of fees in respect of an application or transfer of proceedings to, or oral hearing by, a leasehold valuation tribunal in a case under -*

(a) *the 1985 Act (service charges and choice of insurers)*

(2) *Procedure regulations may empower a leasehold valuation tribunal to require a party to proceedings to reimburse any other party to the proceedings the whole or part of any fees paid by him.*

(3) *The fees payable shall be such as are specified in or determined in accordance with procedure regulations; but the fee (or, where fees are payable in respect of both an application or transfer and an oral hearing, the aggregate of the fees) payable by a person in respect of any proceedings shall not exceed -*

(a) *£500, or*

10. *Costs*

(1) *A Leasehold Valuation Tribunal may determine that a party to proceedings shall pay the costs incurred by another party in connection with the proceedings in any circumstances falling within sub-paragraph (2).*

(2) *The circumstances are where -*

(a) *.....*

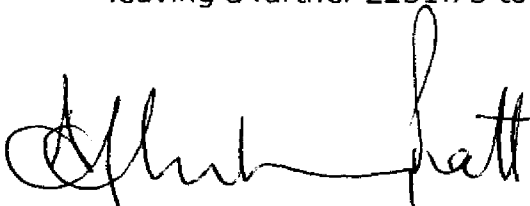
(b) *he has, in the opinion of the Leasehold Valuation Tribunal, acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.*

(3) *The amount which a party to proceedings may be ordered to pay in the proceedings by a determination under this paragraph shall not exceed £500.00.'*

The Tribunal decided that the Respondent had acted unreasonably in connection with the proceedings and determined that :-

(a) The Respondent should reimburse the Applicants for the Application fee of £100.00 and the Hearing fee of £150.00. These amounts had already been paid.

(b) The Respondent should reimburse the Applicants for the costs incurred with the preparation for and attendance at the Hearing, up to the maximum of £500.00. An amount of £248.25 had already been paid, leaving a further £251.75 to be paid to the Applicant by the Respondent.



A J MELLERY-PRATT FRICS
Chairman

10th September 2007