

**Residential
Property**
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Case Reference: LON/00AD/LSC/2007/0095

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER SECTION 27A LANDLORD AND TENANT ACT
1985 as amended**

Applicant: MR SIMON SMITH & MR MARK KENNEDY

Respondents: ACORN ESTATE MANAGEMENT

**Premises: 4 Old College Court, Upper Holly Hill Road,
Belvedere, Kent DA17 6HJ**

Date of decision: 14 May 2007 (Paper decision)

**Leasehold Valuation Tribunal: Mr M Martynski
Mr M.L. Jacobs FRICS
Mr C. Piarroux JP CQSW**

Decision summary

1. The sum of £521.06 was reasonably incurred and is payable by the Applicants.

Background

2. Major works were required to the roof of the building in which the subject premises is situated. The statutory consultation in respect of these works was carried out by Acorn Estate Management. By letter dated 7 March 2006, Acorn wrote to the Applicants setting out the full cost of the proposed works and the Applicants' share of those costs, which amounted to £7,788.30. Payment of the Applicants' share was required by 31 May 2006. It was intended that works would commence in early June 2006 and it was stated by Acorn that;

"The appointed contractor will be instructed to proceed only when the full project fund is in place." [letter to the Applicants dated 7 March 2006]


"It is imperative that roof works are carried out in the summer months." [letter to the Applicants dated 7 April 2006]

"Please be advised that we are unable to instruct the contractor to proceed with works until the full project fund is in hand." [letter to Applicants dated 10 July 2006]

3. The invoice for the Applicants' share of the roof works was dated 7 April 2006. Chasing letters for the sum in question were sent to the Applicants.
4. In a letter dated 3 July 2006 addressed to the Respondent, Mr Smith took issue with the demand and the need for the works. This letter was answered by the Respondent by letter dated 5 July 2006. By letter dated 7 July 2006, Mr Smith stated; *"I am away in Spain from next week for the whole of the summer holidays and therefore will be unable to deal with any further correspondence until my return on 1st September. I therefore propose to make arrangements to pay the outstanding account for the roof in full upon my return. I trust that this is acceptable to you and allows you to proceed with the necessary works....."*
5. By letter dated 14 July 2006 Mr Smith sent to the Respondent a cheque dated 10 September 2006 for the full sum in question.
6. The works in question did not then start until in or about November 2006.
7. By the time that the letter dated 14 July 2006 (with the post-dated cheque) had been sent to the Respondent, solicitors had already been instructed and had issued proceedings against the Applicants for recover of the sum in question. Those proceedings were later withdrawn.
8. As to the disputed sum of £521.06, that is broken down as follows;

Letter to mortgage company -	£15.00
Contact charge -	£15.00
Tracing lender info -	£48.00
Solicitor's costs (inc VAT) -	£185.06
Court fees -	£250.00
Land Registry fees -	£8.00
9. The Applicants' lease clearly contains a provision allowing the recovery of legal costs and other charges in these circumstances – see clause 5(1).
10. The Respondent was entitled to make the demand for the sum of £7,788.30 in the manner that it did under the Applicants' lease – see clause 1(1)(m). It was reasonable for the Respondent to seek the sum in advance of instruction of the contractors.
11. It was reasonable, in the light of non-payment on the part of the Applicants for the Respondent to incur charges in trying to obtain the outstanding sum and to instruct solicitors to issue proceedings.
12. The fact that the roof works were not started during the summer of 2006 as anticipated was no doubt due to the problems incurred by the Respondents in

collecting the contributions to the costs of the works from leaseholders. The Tribunal does not consider that it is of any relevance that the solicitor's bill for the legal costs states that the bill was for work between 3 July and 4 October given the charges in the bill were entirely reasonable for the taking of instructions and issuing of proceedings which is the work that was done prior to payment by the Applicants.


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Mr M Martynski

14 May 2007