

CHI/00LC/LSC/2008/0038

**DECISION OF THE LEASEHOLD VALUATION
TRIBUNAL TRIBUNAL ON APPLICATIONS UNDER
SECTION 27A OF THE LANDLORD & TENANT ACT 1985**

Address: Flats 1 & 2, 477 Canterbury Street, Gillingham,
Kent, ME7 5LJ

Applicants: (1) Mr P. Munns (2) Mr S. Samuel

Respondent: Longmint Limited

Application: 22 April 2008

Inspection: 22 July 2008

Hearing: 22 July 2008

Appearances:

Tenant

Mr P. Munns

Leaseholder

For the Applicants

Landlord

Did not attend

For the Respondent

Members of the Tribunal:

Mr I Mohabir LLB (Hons)

Mr C. White FRICS

Mr P. Gammon

IN THE LEASEHOLD VALUATION TRIBUNAL

CHI/00LC/LSC/2008/0038

**IN THE MATTER OF SECTION 27A OF THE LANDLORD & TENANT ACT
1985**

**AND IN THE MATTER OF FLATS 1 & 2, 477 CANTERBURY STREET,
CHILLINGHAM, KENT, ME7 5LJ**

BETWEEN:

**(1) MR P. MUNNS
(2) MR S. SAMUEL**

Applicants

-and-

LONGMINT LIMITED

Respondent

THE TRIBUNAL'S DECISION

Introduction

1. This is an application by the Applicants pursuant to section 27A of the Landlord and Tenant Act 1985 (as amended) ("the Act") for a determination of the reasonableness of the buildings insurance premiums the Respondent seeks to recover for the service charge years ending 1 March 2008 and 1 March 2009. The sums claimed by the Respondent are £816.78 and £857.50 respectively for effecting buildings insurance for the property known as 477 Canterbury Street, Gillingham, Kent, ME7 5LJ ("the subject property").
2. The Respondent is the freeholder of the subject property. The First Applicant is the lessee of Flat 2, the first floor flat. The Second Applicant is the lessee of Flat 1, the ground floor flat. Both Applicants hold their respective premises

under long leases granted variously. The Tribunal had before it a copy of the lease granted in relation to Flat 2 dated 12 April 1999 ("the lease") as a specimen lease. The Tribunal had not been told that the lease granted in relation to Flat 1 was in different terms. It is, therefore, assumed that both leases had been granted in the same terms.

3. By clause 1 of the lease, the lessee agreed to pay by way of additional rent the amount which the lessors expend in effecting and maintaining the insurance of the premises against loss or damage by fire and such other risks as the lessor may deem necessary, such additional rent to be paid without any deduction within 14 days of the same being demanded.
4. By clause 3(3) of the lease, the lessor covenanted to insure and at all times during the said term to keep insured the premises.
5. As the Tribunal understood it, the Applicants do not challenge their contractual liability to indemnify the lessor for the cost incurred in effecting buildings insurance cover for the subject property. The Applicants challenge is limited to the reasonableness of the buildings insurance premiums claimed by the Respondent for the disputed service charge years. That determination is made by the Tribunal below.

Inspection

6. The Tribunal externally inspected the subject property and the interior of Flats 1 and 2 on 22 July 2008. The building was constructed as a two storey terraced house in about 1900. It was converted to two flats some years ago. It has a very small communal front garden and hall. The hall has a front door to the ground floor flat and a door to the upper flat which leads to the staircase. The building has a level rear garden with the first part leased to the ground floor flat and the rear garden to the upper flat but only reached via a rear access path which itself is some distance from the building. The flats are self contained with a reasonable standard of fittings satisfactory for this type and class of property. Central heating is installed to both flats.

Decision

7. The hearing in this matter also took place on 22 July 2008. The First Applicant, Mr Munns, appeared in person. Neither the Second Applicant nor the Respondent appeared and were not represented.

8. It came to be Tribunal's attention that the Respondent had filed a bundle of documents, which had been received by the Tribunal's office the preceding day. However, having regard to the late delivery of those documents, they were not before the Tribunal at the time of the hearing. There was no explanation from the Respondent as to the reason why those documents had been filed out of time and in breach of the Tribunal's Directions issued as long ago as 30 April 2008. Until this time, the Respondent does not appear to have taken part in these proceedings at all. Moreover, the Tribunal was then informed that the Respondent's legal representative had attended the Tribunal's office in the mistaken belief that the hearing would take place there. Upon checking the Tribunal's file, it was clear that the Respondent had been correctly informed of the hearing date and time and venue. In the circumstances, the Tribunal decided to proceed with the hearing in the absence of either the Respondent or its legal representative.

9. Mr Munns submitted that the buildings insurance premiums the Respondent sought to recover for the two disputed service charge years were unreasonable because they were excessively high. In support of this submission, Mr Munns referred the Tribunal to the two alternative buildings insurance quotes he had obtained for the 2007/08 service charge year. He had been advised to obtain these alternative quotes by the Respondent's solicitors, Juliet Bellis & Co, based on the policy schedules of cover provided to him. The first quotation was provided by Property Select Insurance on 12 November 2007 in the sum of £336.96 with an additional premium of £52.50 for terrorism cover. The second quotation was provided by GSI Commercial Services LLP dated 13 December 2007 in the sum of £290.90, which included terrorism cover. Both premiums included the insurance tax

10. Mr Munns asserted that these quotations were obtained on a "like for like" basis. In other words, the level of cover was identical to the level of cover provided under the Respondent's existing buildings insurance policies. When asked by the Tribunal, Mr Munns said that he had made the claims history of the property known to the companies that provided him with the alternative quotations. He was able to do so because he had lived at the property since 1993 and during that time there had only been one claim in 1999 or damage to the roof for approximately £1,000.

11. Mr Munns went on to explain that, as a cross check, he had made approximately 6 other enquiries to insurance brokers who had provided him with verbal quotes ranging from £300-400. This tended to support the Applicant's alternative quotes as being accurate and their submission that the Respondent's buildings insurance premium was excessive and, therefore, unreasonably incurred.

12. There was no evidence from the Respondent before the Tribunal at all. In the circumstances, the Tribunal accepted the Applicant's general submission that the buildings insurance premiums claimed by the Respondent were excessive and unreasonably incurred. As to the service charge year 2007/08, the insurance quotations obtained by Mr Munns were relevant. They had been based on the same level of cover provided by the Respondent's buildings insurance policies. The quotations also appeared to have been provided having regard to the claims history of the subject property. The Tribunal had no reason to doubt Mr Munns assertion that he was fully aware of all insurance claims made since 1993. He had lived at the property since that date without interruption. It was also a small property comprised of two self-contained flats and the Tribunal concluded that any significant insurance claims would have been a matter of common knowledge between the tenants. Certainly, in the event of any such claim being made, no doubt the Respondent would have sought to recover any excess due under the buildings insurance policy from the tenants through the service charge account. There was no