



Residential
Property
TRIBUNAL SERVICE

**SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Case Reference: CHI/00ML/LVT/2008/0001

**DECISION AND ORDER OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER SECTION 37 OF THE
LANDLORD AND TENANT ACT 1987**

Premises: Berriedale House 251-255 Kingsway Hove BN3 4HD

Applicants: Berriedale House Ltd (Landlord)

Respondent: The Tenants as identified on Schedule 1 annexed

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Date of Hearing: 28 July 2008

Date of Decision: ...28 July 2008

Leasehold Valuation Tribunal:

Mrs F J Silverman LLM
Mr R A Wilkey FRI CS FICPD

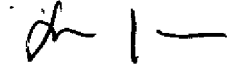
- 1 The Applicant landlords are the freeholders of the premises known
as Berriedale House 251-255 Kingsway Hove BN3 4HD.
- 2 The Premises are divided into 51 flats and the Respondent
tenants are the lessees of those flats .
- 3 Owing to a defect in the original drafting of the leases of the flats
the service charge proportions allocated to the various tenants
added up to more than 100%.
- 4 In practice the Applicants have never recovered more than 100%
of the service charge due because they have informally adjusted
downwards the proportionate amounts payable by the tenants.
- 5 Some leases in the block have already been varied in order to
correct the over-recovery of service charges.
- 6 The current application, brought under s 37 Landlord and Tenant
Act 1987, seeks to formalise the position by varying the service
charge provisions in the various leases so that the tenants each
pay a just and fair proportion of the charges which will under the
proposed new scheme add up to a total of 100%.
- 7 The Applicant brought an application to the Tribunal (dated 15
May 2008) asking the Tribunal to vary the leases for the reasons
cited above and in the manner set out in Schedules 2 and 3
annexed.
- 8 By consent of the parties this matter was dealt with by the Tribunal
on a paper consideration (ie without a face to face hearing) .
- 9 The Tribunal did not consider it necessary in the circumstances of
this case to inspect the property.
- 10 The Tribunal is satisfied that all the tenants in the block (not just the
Respondent) were informed by the Applicant of the proposals to
change their leases.
- 11 In the vast majority of cases the proposed alteration to an
individual tenant's lease represents a reduction in liability for
service charge.
- 12 In only one case will the variation increase the proportion of service
charge payable. That case relates to Flat 47 where the increase is
less than 1% and whose tenants have consented in writing to the
change (Tribunal bundle page 76).
- 13 The Tribunal has power to order such a variation where at least
75% of the tenants vote in favour of the variation and no more than
10% object.
- 14 As at the date of the Tribunal's consideration 82% of the tenants
had consented to the variation. No objections had been received.
Copies of the consent letters were placed before the Tribunal
(bundle pages 38-79).
- 15 In the light of the above the Tribunal makes the order as requested
by the Applicant and as set out below.

ORDER

Pursuant to s 37 Landlord and Tenant Act 1987 the Tribunal orders that the leases of the premises known as Berriedale House 251-255 Kingsway Hove

BN3 4HD as shown on Schedule 3 Annexed hereto shall, as from the date of this order be varied in the terms contained in Schedules 2 and 3 annexed hereto.

Frances Silverman
Chairman

A handwritten signature in black ink, appearing to be 'F. Silverman', followed by a horizontal line.

SCHEDULE 1

(Respondent Tenants)

William Tully and Catherine Mary Tully (Flat 1)
Tracey Henrietta Priestley (Flat 2)
Lois Marguerite Blake (Flat 3)
Judith Ann Gill (Flat 4)
Parvin Pike (Flat 5)
Mary Joan Poyser (Flat 6)
Jill Elizabeth Stean, John Nicholas Stean and Timothy Richard Stean (Flat 7)
William Albert Shaw (Flat 8)
Christopher Sharples Jakeman and Vanessa Jane Jakeman (Flat 9)
Tibor Karoly Schrodel and Joyce Peggy Schrodel (Flat 10)
Michelle Ross (Flat 11)
Yusamin Fakhrhosseini (Flat 12)
Marc Andrew Shirt and Gemma Louise Hill (Flat 13)
Stephen MacKenzie (Flat 14)
Marjorie Eileen Lawrence (Flat 15)
Graeme Frank Brooks, Gina Michelle Booth and George Ernest Eagles (Flat 16)
Dorothy Margaret Hollingsworth (Flat 17)
Jane Jukes (Flat 18)
Karen Louise Blakesley and Andrew Phillip Satchwell (Flat 19)
Administrators of the estate of Sonia Weber (deceased) (Flat 20)
Elsie Elvira Webber (Flat 21)
Tracey Henrietta Priestley (Flat 22)
Shelley Rachel Sabbagh (Flat 23)
Executors of the estate of Albert Kattell (deceased) (Flat 24)
Devoncourt Hotels plc (Flat 25)
Donal Patrick Harrison (Flat 26)
Albert Charles Harold Eyselshoven (aka Riley) (Flat 27)
Nicholas Stephen Jackson (Flat 28)
Marta Carnicero Casimiro and Ayhan Suleyman (Flat 29)
Mohamed El-Bayouk (Flat 30)
Stephen Paul Beard (Flat 31)
Dorothy Agnes French (Flat 32)
Reginald James Lockwood and Lee Erica Lockwood (Flat 33)
Victor Newton and Keith Sumner (Flat 34)
Marion Florence Hamel (Flat 35)
Adrian O'Brien (Flat 36)
Beryl Irene Rezakhani and Behrouz Rezakhani (Flat 37)
Brian John Dallimore (Flat 38)
John Henry Jowitt (Flat 39)
Margaret Mabel Manns (Flat 40)
John Charles Crane and Denise Crane (Flat 41)
Elizabeth Box (Flat 42)
Richard William Chaplin (Flat 43)
Bernadette Mary Kathleen Marjoram (Flat 44 and 45)
Myer Kurasch (Flat 46)
Kenneth William Symes and Enid Margaret Symes (Flat 47)

Diane Raelia Maisey (Flat 48)

Ilham Chalabi (Flat 49)

Andrew David Walkinshaw Fox (Flat 50)

Peter Charles Crawford and Eva Lisa Crawford (Flat 51)

Draft Variation

- 1 The leases of all of the flats at Berriedale House, 251-255 Kingsway, Hove BN3 4HD be varied in the following manner, pursuant to section 37 of the Landlord and Tenant Act 1987:
 - 1.1 In Paragraph 1(b) of Part I of the Sixth Schedule to each Lease shown in the Table below, the figure shown in Column A of the Table shall be deleted and the figure shown in Column B shall be substituted, so that the Maintenance Contribution payable by the Tenant shall henceforth be such percentage of the Annual Maintenance Provision as is shown in Column B ("the Variation")
 - 1.2 "Lease" includes all or any deeds and documents supplemental to the Lease whether or not expressed to be so and for the avoidance of doubt the Variation shall apply and take effect in relation to all or any past or future extensions to the Lease
 - 1.3 Where there is a conflict between the Variation and any past variation to the Lease then the Variation shall apply

SCHEDULE 3

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Table

Flat	Lease	Column A	Column B
1	Made the 18 October 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) John Michael Allsopp and Chryssa Allsopp (3)	2.3	2.083
2	Made the 6 October 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Grace Mildred Stevens (3)	1.6	1.449
3	Made the 10 May 1971 between Epic Industrial Properties Limited (1) Michael Horton Ledger (2) Ivy Elsie Tickett (3)	2.3	2.083
4	Made the 28 October 1966 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Maud Alice Quirico (3)	2.5	2.264
5	Made the 27 March 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Inez Adelaide Hewitt (3)	2.3	2.083
6	Made the 19 January 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Kathleen Peggy Newman and Frances Mary Sheila Newman (3)	2.3	2.083
7	Made the 27 March 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Edith Dorothy Cortson (3)	1.6	1.449
8	Made the 9 October 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Ethel Batchelor (3)	2.3	2.083
9	Made the 29 January 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Isaac Stein and Rose Stein (3)	2.3	2.083
10	Made the 18 May 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Charles Alfred Pinder-White and Hazel Barbara Pinder-White (3)	2.5	2.264
11	Made the 5 May 1978 between Epic Industrial Properties Limited (1) Michael Horton Ledger (2) Neil Wilkinson (3)	1.9	1.721
12	Made the 15 August 1986 between John Harold Tidmarsh (1) Peter Lewis Davis (2) Gordon Alfred Paine and Margaret Emerald Paine (3)	1.9	1.721
13	Made the 8 July 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Ethel May Habelt (3)	2.3	2.083
14	Made the 4 July 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Eileen Winifred Stantan (3)	2.3	2.083
15	Made the 20 January 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Edmund Neil Robertson (3)	1.0	0.906
16	Made the 24 October 1966 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Enid Roberta Evelyn Whiting Tonkin (3)	2.5	2.264
17	Made the 1 June 1970 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Bessie Eprile (3)	2.3	2.083

18	Made the 27 March 1972 between Epic Industrial Properties Limited (1) Michael Horton Ledger (2) George Maxwell Gee and Leonard Frederick Gould the Trustees of The Wilmar Trust (3)	2.3	2.083
19	Made the 29 April 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) William James Reynolds (3)	1.9	1.721
20	Made the 24 March 1972 between Epic Industrial Properties Limited (1) Michael Horton Ledger (2) Agnes Brown (3)	1.9	1.721
21	Made the 15 August 1969 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Sylvia Florence Lilley (3)	2.5	2.264
22	Made the 20 November 1970 between Epic Industrial Properties Limited (1) Michael Horton Ledger (2) Thomas Paton Palmer and Pauline Isobel Palmer (3)	2.3	2.083
23	Made the 9 May 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Reginald William Edgar Holloway (3)	1.0	0.906
24	Made the 12 January 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Phyllis Helen Eiloart (3)	2.5	2.264
25	Made the 25 January 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Stanley Alder (3)	2.5	2.264
26	Made the 27 February 1969 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Clare Shure (3)	2.5	2.264
27	Made the 11 January 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Albert Charles Harold Eygelshoven (3)	1.9	1.721
28	Made the 15 May 1987 between John Harold Tidmarsh (1) Peter Lewis Davis (2) Nicholas Paul Casey and Jacqueline Suzanne Dawson (3)	1.9	1.721
29	Made the 3 November 1969 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Mary Vickers (3)	2.5	2.264
30	Made the 16 August 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) William Maynard Brazier (3)	2.3	2.083
31	Made the 17 January 1969 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Edith May Howells (3)	1.6	1.449
32	Made the 14 June 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Robert Alfred Hobbs (3)	2.3	2.083
33	Made the 10 August 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Rebecca Lucy Agnes McIvor (3)	2.5	2.264
34	Made the 17 November 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Pamela Nyman (3)	2.3	2.083
35	Made the 1 July 1987 between John Harold Tidmarsh (1) Peter Lewis Davis (2) Ian Martin Gough (3)	1.9	1.721

36	Made the 29 June 1970 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Joyce Dorothy Daisy Tobin (3)	1.9	1.721
37	Made the 18 July 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Muriel Florence Thornton (3)	3.5	3.170
38	Made the 23 September 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Maria Estella Gompels (3)	1.6	1.449
39	Made the 11 December 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Douglas Henry Evans (3)	2.3	2.083
40	Made the 6 September 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Albert Edward Dorey and Winifred Joyce Dorey (3)	2.5	2.264
41	Made the 9 September 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Thomas John James (3)	2.3	2.083
42	Made the 8 May 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Horace Patrick and Florence Alice Patrick (3)	1.5	1.359
43	Made the 1 April 1970 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Diana Jane Lees (3)	1.9	1.721
44	Made the 28 November 1966 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Frederick Charles William Knight and Kate Knight (3)	1.0	0.906
45	Made the 12 March 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Kitty Nossek (3)	2.3	2.083
46	Made the 13 November 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Katrina Olga Arden (3)	2.3	2.083
47	Made the 26 July 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Donald William James Orchard (3)	3.0	2.717
48	Made the 18 January 1972 between Epic Industrial Properties Limited (1) Michael Horton Ledger (2) Ivor Vincent Price (3)	1.9	1.721
49	Made the 16 October 1968 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Leonard Lawrence Mistlin (3)	2.3	2.083
50	Made the 10 February 1969 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Charles William Carbis Tummon and Joan Tummon (3)	2.3	2.083
51	Made the 7 August 1967 between Epic Industrial Properties Limited (1) Epic Property Management Limited (2) Laurence Acres (3)	3.0	2.717
Total		110.4	100.000