

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



**Residential
Property
TRIBUNAL SERVICE**

JURISDICTION

Section 91, Leasehold Reform, Housing and Urban Development Act 1993

DECISION

Case Number	CHI/43UH/OLR/2008/0007
Property	59, Avondale Avenue, Staines, Middlesex TW18 2NG
Applicants (Tenants)	Mr.Eamonn Bernard O'Neill and Mrs.Maureen O'Neill (as personal representatives of the late Mrs Mary Winifred O'Neill)
Respondent (Landlord)	Adam Choice Limited
Applicants' Representative	Mr.P.Hughes of Rowberry Morris
Respondent's Representative	Mr.S.Choudary
Date of Inspection	25 th April 2008
Date of Hearing	25 th April 2008
Date of Decision	12th May 2008
Tribunal Members	Mr. C.H.Harrison (Chairman) Mr. R.A.Potter FRICS Mr. P.D. Turner-Powell FRICS

DECISION

BACKGROUND

1. By an Order of the Reading County Court dated 21st December 2007 under Claim No. 7RG05403, the Applicants are entitled to the grant of a new lease of the Property under Chapter II of the Leasehold Reform, Housing and Urban Development Act 1993 (the '1993 Act') and were required to apply to the leasehold valuation tribunal to determine the premium to be paid by them to the Respondent landlord for the grant of the new lease under section 56 and schedule 13 to the 1993 Act.
2. The Order also requires that, if the Applicants and the Respondent agree the amount of the premium before the sum is determined by the Tribunal, the Applicants should withdraw the application.
3. The Applicants, accordingly, applied on 22nd January 2008 to the Tribunal to determine the premium.

THE RELEVANT LAW

4. Section 56 of the 1993 Act provides, so far as material, that a new lease under Chapter II shall be in substitution for the existing lease and at a peppercorn rent for a term expiring 90 years after the term date of the existing lease.
5. Section 91 of the 1993 Act provides, so far as material, that a leasehold valuation tribunal has jurisdiction, in default of agreement, to determine, among other matters, the amount of the premium to be paid for any such lease.

INSPECTION

6. The Tribunal inspected the Property on 25th April 2008, in the presence of the Applicants and their representative, Mr Hughes. The Respondent was not represented at the inspection.
7. The Property is a purpose built ground floor maisonette, built about 70 years ago, with rendered walls and a pitched and tiled roof. The accommodation is: 1 bedroom, 1 living room, kitchen and bathroom. Outside, there are gardens to front and rear. There is a pedestrian access to front and rear. All mains services are connected and the Property has gas fired central heating. The Tribunal found the Property to be in satisfactory condition, though a little dated to its fixtures and fittings.

THE EVIDENCE

8. During the Hearing, the Tribunal observed to the parties that:
 - a. the draft of the proposed new lease which the Applicants had included in their written evidence reserved a yearly rent of £15 in addition to service charge and insurance rents and that such a rent, not being a peppercorn, would render a lease following the draft contrary to section 56 of the 1993 Act;
 - b. the draft was of a reversionary lease for a term of 90 years commencing on the term date of the existing lease in 2075 and that such a lease would be contrary to section 56 of the 1993 Act (and also, apparently, void under section 149(3), Law of Property Act 1925); and
 - c. it appeared to the Tribunal, from the written evidence, that the parties had, in any event, agreed the amount of the premium to be paid for the new lease.
9. Mr Hughes for the Applicants and Mr Choudary for the Respondent each confirmed that the parties had agreed a premium of £15,000 and an additional amount of £300 in respect of the Respondent's costs.
10. It was apparent from submissions made by Mr Hughes that there was an issue between the parties about completion of the new lease.
11. The Tribunal adjourned the Hearing for a short time so that the parties could consider its observations about compliance with section 56 of the 1993 Act and so that the Tribunal could consider the evidence regarding agreement of the premium.
12. On resumption of the Hearing, Mr Choudary put in further evidence comprising copy correspondence between the Respondent and the Applicants' solicitors and vice versa, evidencing agreement in writing between the parties or their representatives about the premium. The Applicants did not object to that evidence and both Mr Choudary and Mr Hughes confirmed to the Tribunal that such correspondence referred to the agreed premium of £15,000.

THE TRIBUNAL'S DECISION

13. The Tribunal is satisfied, irrespective of compliance with section 56 of the 1993 Act, that there is an agreement evidenced in writing between the parties or their representatives as to the amount of the premium; and, accordingly, the Applicants should have withdrawn their application to the Tribunal in accordance with the Reading County Court's Order dated 21st December 2007.
14. In any event, the premium having been agreed between the parties, the Tribunal has no jurisdiction to determine it.

15. If there is an issue between the parties about completion of the new lease or any other aspect including costs, that is a matter for further appropriate application.

A handwritten signature in black ink, appearing to be 'J. H. Green', written over a dotted line. Below the dotted line is a solid horizontal line.

Chairman

12th May 2008