

London Leasehold Valuation Tribunal File Ref No.

LON/00AZ/LSC/2007/0382

Leasehold Valuation Tribunal: Full reasons for decision

Landlord and Tenant Act 1985 section 27A

Address of Premises

The Committee members were

Flat 22 Denham Court, 114-118 Kirkdale, Sydenham, London SE26 4BE	Mr Adrian Jack Mr Bryan Collins FRICS Mrs J Clark
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The Landlords: Mr and Mrs J S Englander

The Management Company Termhouse (Denham Court) Management Ltd

The Tenant: Joseph Melchizedeck Lundy

Background

1. The tenant applies for a determination of the service charges he is obliged to pay on account in the current service charge year, 1st October 2007 to 31st September 2008.

The hearing and inspection

2. The Tribunal held a hearing on 14th January 2008. The tenant appeared on his own behalf. Ms Soupe of Chainbow, the managing agents, and Mr Crooks of the management company appeared. The landlords did not appear.
3. At the conclusion of the hearing the Tribunal considered that an inspection of the property was desirable and an inspection took place after the hearing on 14th January 2008.
4. The tenant's flat is in a large purpose built 1930's block with three entrances. The carpets in the common parts showed some staining. The fence at the back of the property was rickety and the garden gate at the back was tumbledown, so that strangers could get access to the bin area without great difficulty if they wished to fly-tip rubbish.

26. This does not prevent the management company recovering its costs under the terms of the lease, if the lease so provides. To avoid this possibility, the tenant applies under section 20C of the Landlord and Tenant Act 1985 for an order preventing the landlord recovering its costs of these proceedings under the terms of the lease. Since the tenant has lost, it is not in our judgment appropriate to interfere with the management company's contractual rights.
27. We make no determination as to whether or not the management company is actually entitled to recover its costs under the terms of the lease. That will be a question for another day. But if the management company is entitled, then we do not debar it from doing so.
28. In relation to the fees payable to the Tribunal, the Tribunal has a discretion. The starting point is, however, that the loser should pay the fees. There is nothing in our judgment to displace the usual rule. Accordingly the tenant should pay the application fee and the hearing fee. This he has already done, so the Tribunal makes no order in respect of these costs.

DECISION

The Tribunal accordingly determines:

- a. that none of the items claimed in the service charge budget for 1st October 2007 to 31st September 2008 are disallowed;
- b. that this determination applied only to monies payable on account in respect of the said year and does not debar either party from reapplying to the Tribunal as and when final figures for that service charge year are available;
- c. that it refuses the tenant's application for an order under section 20C of the Landlord and Tenant Act 1985;
- d. that it otherwise makes no order for costs.


Adrian Jack, chairman 18 February 2008