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LON/00BK/LIS/2007/0065

THE RESIDENTIAL PROPERTY TRIBUNAL SERVICE

**DECISION OF THE LONDON LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER S27A OF THE LANDLORD AND TENANT ACT 1985**

Property: Flat 10 Cheylesmore House, 47 Ebury Bridge Road, London SW1W 8QY

Applicant: Cheylesmore House Residents Association Company Limited

Respondents: P J Clarke and R A Clarke

**Decision on the basis of written representations in accordance with the procedure set
out in regulation 13 of the Leasehold Valuation Tribunals (Procedure) (England)
Regulations 2003**

Tribunal:

Lady Wilson

Date of the tribunal's decision: 21 February 2008

1. This is an application by Cheylesmore House Residents Association Company Limited (“the landlord”) under section 27A of the Landlord and Tenant Act 1985 (“the Act”) to determine the liability of Mr and Mrs Clarke, the leaseholders of Flat 10 Cheylesmore House (“the tenants”) to pay service charges said to be due for the period 25 March 2006 to 28 September 2007. The landlord is a management company which is a party to the tenants’ lease and is entitled to enforce payment of service charges. It is therefore, by virtue of section 30 of the Act, “a landlord” for the purpose of the part of the Act which relates to service charges.
2. The parties have not asked for an oral hearing and this determination is made on the basis of written representations in accordance with the procedure set out in regulation 13 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003 and by a single member of the Panel in accordance with regulation 13(5). Mr Clarke attended at the tribunal on 21 February 2008, before the decision had been issued, and informed the case officer that he did not wish to seek an oral hearing and explained the other commitments which had prevented him from responding earlier.
3. The landlord asserted in its application that it did not believe that there was a dispute regarding the reasonableness of the relevant service charges. In pre-trial directions dated 13 December 2007, after a pre-trial review which Mr Clarke attended, the landlord was required to supply to the tenants by 21 December 2007 a statement of its case and supporting documents, to which the tenants were required to respond by 18 January 2008. The landlord served and lodged its statement of case in the form of a statement by Mr T W S Burr of Parkgate-Aspen limited, the landlord’s managing agent, dated 20 December 2007 and supporting documents. The tenants did not respond as directed and there is no evidence or any other material before me which suggests that they dispute their liability to pay the service charges which are said to be payable.
4. Section 27A of the Act provides that an application may be made to a leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to the amount which is payable. By section 18(1), “service charge” means an

amount payable by a tenant which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, the whole or part of which may vary according to the relevant costs. By section 19(1), relevant costs shall be taken into account in determining the amount of a service charge only to the extent that they are reasonably incurred and, where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard.

5. I have reviewed the documents attached to the landlord's statement of case, which include the service charge accounts, prepared by chartered accountants, for the year ended 31 March 2007 and the estimated service charges for the year 2008. The charges appear on their face to be reasonable for a professionally managed purpose built block of flats, and all the charges appear to be service charges within the meaning of the Act. In the absence of any evidence to the contrary or any suggestion that the charges have not been properly demanded in accordance with the tenants' lease I determine that the costs upon which the charges have been based were reasonably incurred and that the relevant service charges are payable by the tenants in full and forthwith.

6. The pre-trial directions invited the parties to make written representations as to the reimbursement of fees paid for the application. Mr Burr said that the application was unavoidable and the tenants should pay the costs. The tribunal has no general power to order costs, save in the exceptional circumstances envisaged by paragraph 10 of Schedule 12 to the Commonhold and Leasehold Reform Act 2002, but it does have power under regulation 9 of the Leasehold Valuation Tribunals (Fees) (England) Regulations 2003 to order the reimbursement of the fees paid, and in the exercise of that discretion I order the tenants to reimburse the fee of £100 which the landlord has paid for the application.

CHAIRMAN.....

DATE: 21 February 2008