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**RESIDENTIAL PROPERTY TRIBUNAL SERVICE****NORTHERN RENT ASSESSMENT PANEL****Decision of the Leasehold Valuation Tribunal****LANDLORD & TENANT ACT 1985 – SECTION 27A(1)**

**Applicants:** Mr Alan Taylor  
**Respondent:** One Vision Housing Ltd  
**Property:** 11b Duke Street, Formby, Liverpool L37 4AN  
**Date of Determination:** 29 January 2008

**Committee:**  
L J Bennett - Chairman  
E Thornton Firkin BSc, MRICS

**Attendance:****A. Application:**

The Applicant applies:

1. Under section 27A of the Landlord and Tenant Act 1985 for determination of liability to pay service charges for years 2005/06 and 2006/07 in respect of 11b Duke Street, Formby, Liverpool L37 4AN (the Property).

**B. Preliminary:**

2. On 9 November 2007 the Chairman made directions for the determination of the application. The directions identified the application as one as suitable to be determined without a hearing unless either party requested the opportunity to present oral evidence.
3. Neither party made a request for an oral hearing. Both provided written evidence and submissions.
4. The tribunal convened on 29 January 2008 to reach its decision.

**C. The Lease:**

5. The Applicant is the owner of the Leasehold interest in the Property created by a Lease dated 10 June 2002 made between the Metropolitan Borough Council of Sefton of the one part and the Applicant of the other part (the Lease).
6. Paragraph 2.2 of the Lease contains the Applicant's covenant "to pay to the Landlord..... by way of further and additional rent a part of the expenses and outgoings incurred or to be incurred by the Landlord in the ..... provision and maintenance of all services and amenities thereon." The service charge so defined is to be calculated in accordance with other provisions contained within the Lease.
7. The Respondent has acquired the Landlord's interest in the Lease.

**D. Facts & Submissions:**

8. The Applicant queries service charges requested for service charge year 2005/06 and on account for service charge year 2006/07 for electricity supplied to the communal area and management charge in the total sums of £12.46 and £12.90 respectively. The accounts show that the "management/admin charge" included for 2005/06 was £11.11 and 2006/07, £11.51.
9. Analysis of the information provided by the parties, support by the Lease plans, show that the charge for electricity relates to lighting in the communal area which falls within the Applicant's obligation to pay service charge within the Lease. The Applicant in a submission dated 8 December 2007 confirms there is a meter for that supply in the communal hallway. This does not provide a supply to an outside security light installed by neighbouring commercial occupiers and supplied from within their commercial building.
10. The Applicant does not consider the Respondent has the right to charge for the services as they had not succeeded to the original Landlord's interest during the early part of the period. He also considers they failed to serve a statement in compliance with Section 21 of the Landlord & Tenant Act 1985 within six months from the end of the accounting period. He queries his responsibility and the performance of the Landlord for other services which have not been supplied or charged.
11. The Respondents submission of 5 December 2007 refers to delay in supplying statements of account which arose from the "stock transfer from their predecessors," draws attention to the provisions of the Lease which allow the service charge to be collected and states that it has been calculated in accordance with the Lease provisions. It refers to the actual cost of electricity and method utilised to calculate the management charge.

**E. The Law**

12. Section 27A of the Landlord and Tenant Act 1985 states that:
  - (1) 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 –
    - (a) the person by whom it is payable,

(c) the amount which is payable

13. Section 20B of the Landlord and Tenant Act 1985 provides that a tenant shall not become liable for costs incurred more than 18 months before a demand is served save if "within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his Lease to contribute to them by the payment of the service charge."
14. Section 21A(3) of the Landlord and Tenant Act 1985 states that "An amount may not be withheld under this section ..... after the document concerned has been supplied to the Tenant by the Landlord ....."

#### **F. Conclusions with reasons**

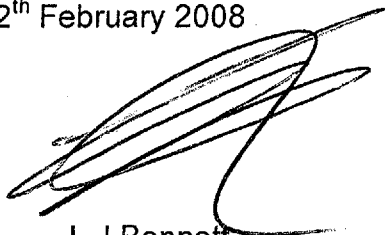
- a. We have carefully considered the documentary evidence and submissions provided by the parties.
- b. Having considered the Lease provisions the nature of the charge and the amount specified for electricity, we are satisfied that the cost of electricity for each year is appropriately contained within the service charge demands and is payable. It relates to a light in a communal area which is separately metered by a meter located within that area and is a service within the scope of the Lease obligations.
- c. We have considered the Respondents evidence about the calculation of administration charge. We find that the calculation is not based on the individual property and cannot therefore reflect the work actually involved for this specific property. Notwithstanding, bearing in mind the amount charged we find it is within the minimum range we would consider possible for the necessary management function and within the minimum figure our knowledge and experience indicates is appropriate. We find the management charge reasonable and appropriate and unlikely to cover the actual cost of collection although it may appear disproportionate in relation to the disbursement for the services provided.
- d. The Applicant raised queries about other services. We note that such services have not been supplied nor charged. We are not able to make hypothetical determinations or comment on quality of services that are not a reality. This cannot affect our determination.
- e. The Applicant submitted that the service charge is not payable because a statement has not been served within six months of the end of the period as required by Section 21 of the Landlord & Tenant Act 1985. We do not agree: by Section 21A(3)(a) it is clear that any period during which the service charge could be withheld has ended as an appropriate statement has now been served.
- f. In summary we conclude:
  - A service charge is payable for the services supplied.
  - The charge requested for each of the service charge years is reasonable.
  - The charge cannot be withheld by the Applicant by virtue of Section 21.
 We determine that the Applicant is liable for the service charges requested.

**Order**

Mr Taylor shall pay to One Vision Housing Ltd the sum of £25.36 for service charge requested for year 2005/06 and 2006/07.

Date: 12<sup>th</sup> February 2008

Signed:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Chairman:

L J Bennett