

**Southern Rent Assessment Panel and Leasehold Valuation Tribunal**

Case No. CHI/00ML/LIS/2009/0032

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL  
SECTION 27A of the LANDLORD AND TENANT ACT 1985**

**Property:** 43 Langdale Road, Hove BN3 4HR  
**Applicant:** Swanlane Estates Limited (landlord)  
**Respondent:** Mr W Tinsley (tenant)  
**Application:** 3 March 2009  
**Transfer to LVT:** 16 April 2009  
**Directions:** 29 April 2009 & 17 June 2009  
**Consideration:** 24 September 2009  
**Decision:** 25 September 2009

**Members of the Leasehold Valuation Tribunal**

Ms J A Talbot MA  
Mr N Robinson FRICS

**Summary of the tribunal's decision**

Mr Tinsley is liable under the terms of the lease to contribute one fourth of the cost of insurance expended by the landlord. For the years in question – ending 25 December 2007, 2008, and 2009 – the insurance costs were reasonably incurred and payable as service charges. Mr Tinsley is liable to pay immediately to Swanlane Estates Limited the sum of £385.58 in respect of his one fourth share of the insurance costs.

**Case No. CHI/00ML/LIS/2009/0032**

**Flat 2, 43 Langdale Gardens, Hove, BN3 4HR**

**Application**

1. This was a claim issued in Watford County Court on 3 March 2009 by the landlord, Swanlane Estates Limited, for arrears of service charges payable in respect of the buildings insurance premium for the accounting years ending 25 December 2006, 2007, and 2008, along with ground rent.
2. Mr Tinsley filed a defence and the case was transferred to the LVT by DJ Gamba on 16 April 2009. Directions were issued by the Tribunal on 29 April and 17 June 2009, proposing that the matter should be dealt with on the papers without an oral hearing or inspection. Neither party requested a hearing. Accordingly, the matter was determined by a tribunal on the consideration of documents.
3. The Directions provided that the applicant should provide a statement of case together with all relevant documents, and for the respondent to provide in reply if he wished to contest the application. Swanlane complied with the Directions but Mr Tinsley did not.

**Lease**

4. The tribunal was provided with a copy of the lease of the flat 2, 43 Langdale Road, Hove BN3 4HR. The lease is dated 21 May 1971 and is for a term of 99 years from 25 March 1971 at a ground rent of £20 and rising thereafter.
5. Insofar as is material to the application, the lease contains the following covenants by the tenant at Clause 4(II)(a)::

*to pay and contribute ... a one fourth part of all moneys expended by the Lessor in complying with his covenants in relation to the Building as set forth in Clauses 6(b) and (d) hereof.*

These service charges are payable by payments on account due on 29 September and 25 March each year with the balance payable at the end of the accounting year of 25 December.

6. The landlord is obliged under Clause 6(B) *to insure and keep insured the Building against loss or damage by fire and other such risks (if any) as the Lessor thinks fit in some insurance office of repute in the full replacement value thereof.*

**Consideration**

7. The matter came before the LVT on 24 September 2009. The tribunal carefully considered the written evidence and submissions from both parties.
8. Mr Tinsley was at all material times the lessee of flat 2, 43 Langdale Road, Hove, a property converted into flats. Mr Tinsley was liable to contribute one fourth of the cost of the insurance by way of service charges under Clause 4(II)(a) of the lease.
9. Swanlane arranged the insurance for the property through their brokers, Coppergate Insurance Services. Copies of the buildings insurance certificates for the years in

question were supplied, showing that the property was insured with Aviva, a reputable insurer. Along with standard cover for damage by fire and other hazards, loss of rent, property owners liability and IPT were included. The sum insured was £291,160, £308,630 and £322,518 for years 2007, 2008 and 2009 respectively.

10. The insurance premiums for the years in question, along with Mr Tinsley's one quarter share, were as follows:

Year ending 25 December	premium	one fourth share
2007	£458.58	£114.64
2008	£510.40	£127.60
2009	£573.37	<u>£143.34</u>
Total		£385.58

11. Mr Tinsley did not object to the landlord's insurers or the premiums. His defence in the County Court simply stated that he did not know what the insurance was for and that had not been able to communicate with the landlord. He said he had sent a cheque for £60 for the ground rent.
12. The landlord's case was simply that the landlord was obliged under the terms of the lease to insure the property and the tenant was liable to contribute one fourth of the cost, and that the contribution had been properly demanded. Copies of sample demands and reminder letters sent to Mr Tinsley on 18 July 2007, 3 March 2008 and 27 May 2009 were provided. It appeared that Mr Tinsley had not responded and not made any payments. It is not known whether service charges had been demanded for any other lessor's expenditure.

### **Decision**

13. The tribunal had regard to all the written evidence. It was clear that Mr Tinsley was liable under the terms of the lease to contribute one fourth of the cost incurred by the landlord in insuring the property. The tribunal was satisfied that for the years in question the landlord had effected adequate insurance cover at a reasonable cost in accordance with its obligations under Clause 6(B). The premiums for the years in issue were as set out in paragraph 10 above and were not disputed.
14. The tribunal was unimpressed by Mr Tinsley's assertion that he did not know why the moneys were being demanded and what the insurance was for. The terms of the lease were quite clear and he has had ample time and opportunity to read it and to take advice about his rights and responsibilities as a lessee. Given that demands and reminder letters had been sent to him, it was inherently improbable that Mr Tinsley was unable to communicate with his landlord.
15. The tribunal noted, however, that there was no evidence that the demands had been accompanied by a summary of rights and obligations of tenants in respect of service charges, as required by Section 21B of the Landlord and Tenant Act 1985. This came into force on 1 October 2007. The statutory wording is contained in The Service Charges (Summary of Rights and Obligations and Transitional Provisions) (England) Regulations 2007 [SI 1257/2007]. This defect is easily remedied by the landlord subsequently serving the summary.

16. The tribunal has no jurisdiction over ground rent but noted that according to Mr Tinsley he has paid 2 years arrears of ground rent at £30 per year amounting to £60.

17. The tribunal also has no jurisdiction over the costs of the original claim, which are a matter for the County Court, and so makes no order for costs.

**Determination**

For each and every reason given above, the tribunal determines that the following sums are payable immediately by Mr Tinsley to Swanlane Estates Limited respect of his one fourth contribution towards the cost of buildings insurance reasonably incurred by the landlord:

Year ending 25 December 2007:	£114.64
Year ending 25 December 2008:	£127.60
Year ending 25 December 2009:	<u>£143.34</u>
Total:	£385.58

**Dated 25 September 2009**

**Ms J A Talbot  
Chairman**

