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## RESIDENTIAL PROPERTY TRIBUNAL SERVICE

### LEASEHOLD VALUATION TRIBUNAL

**Property:** 4 Bramfield Court, Windsor Drive, Hertford SG14 2JP  
**Applicant(s):** Suzanne Claire Hunt  
**Respondent(s):** Parkfield Marketing Ltd  
**Landlord:** George Ian Leslie McCall  
**The Tribunal:** Mr Adrian Jack (Chairman); Mr David Brown FRICS  
**Case number:** CAM/26UD/LAC/2010/0004

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#### DECISION

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#### **Procedural**

1. The applicant tenant applies to have her liability for certain administration charges levied by the respondent determined. The Tribunal gave directions on 20<sup>th</sup> April 2010. The tenant has substantially complied, but the respondent has not complied at all and has not put forward any case in answer to the tenant's arguments.

2. The directions provided for the matter to be determined on paper without a hearing, unless either party requested a hearing, in which case one would be held. In fact, neither party requested a hearing, so the Tribunal determined this matter on basis of the bundle submitted by the tenant in accordance with the Tribunal's directions.

#### **The lease, the law and the issues**

3. The tenant holds a 99 year lease from 24<sup>th</sup> June 1985, paying a ground rent of £35 per annum rising every 33 years.

4. The original parties to the lease were Graphgable (1985) Ltd as lessor, Greenmead Ltd as management company and Christine Florence Pone as lessee. Ms Hunt is now the lessee, but the other parties to the lease are unclear. Parkfield Marketing Ltd have been claiming monies as "managing agents on behalf of the freeholder PSG Investments Group Ltd", but Ms Hunt seems to allege that Parkfield Marketing Ltd are the management company with Mr McCall as the landlord.

5. Be that as it may, it is clear that Parkfield Marketing Ltd have been demanding monies from Ms Hunt and requiring cheques to be made out to themselves. Accordingly Ms Hunt's liability to Parkfield is a live issue.

6. Schedule 11 to the Commonhold and Leasehold Reform Act 2002 define an "administration charge" as meaning "an amount payable by a tenant of a dwelling...  
(a) for or in connection with the grant of approvals under this lease, or applications for such approvals,...  
(c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or  
(d) in connection with a breach (or alleged breach) of a covenant or condition in his lease."

7. The Schedule provides in paragraph 2 that a "variable administration charge is payable only to the extent that the amount of the charge is reasonable." Paragraph 5 gives this Tribunal jurisdiction to determine whether an administration charge is payable and if so by whom, to whom and the amount, date and manner of payment.

8. The paragraph 4 of the Fourth Schedule to the lease contains an obligation on the part of the tenant "to pay to the Lessor all costs charges and expenses (including Solicitors costs and Surveyors fees) incurred by the Lessor for the purpose of or in contemplation of or incidental to the preparation and services [*sic*] of a notice under Section 146 of the Law of Property Act 1925 requiring the Lessee to remedy a breach of any of the covenants herein contained..."

9. The Fifth Schedule paragraph 15 contains an obligation to pay to the Management Company "a share of the costs outgoings and expenses incurred by the Management Company in making payments and providing the services set out in the Eight Schedule... together with a further ten per cent of such sum (or whatever other percentage is determined by the Management Company) to cover the cost of collection and management."

10. Parkfield Marketing Ltd have made various demands for payment of monies for non-payment of ground rent. From their correspondence it is difficult to understand precisely how the monies are calculated or on what legal basis they are claimed. It appears to be Parkfield's case that Ms Hunt is in arrears with her ground rent, so that the provision set out above concerning the costs and incidental to a section 146 notice justify the sums claim. These total £355 to date with a further £295 threatened for non-payment of the March 2010 ground rent.

11. Parkfield do not seem to rely on the section of the Fifth Schedule which allows the management charges of the management company to be recovered through the service charge, but in any event the claim in that case would be to recover the monies as part of the service charge rather than direct from the tenant, as Parkfield seek to do here.

12. Ms Hunt disputes that Parkfield have served rent demands in the statutory form, however, as will appear we do not need to resolve this dispute.

### **Decision**

13. A tenant is only obliged to pay sums for which provision is made in the lease. In the current case, the only obligation relied by Parkfield on for a claim against the tenant direct for these monies is the provision in connection with the costs of a section 146 notice.

14. Section 146(11) of the Law of Property Act 1925 provides that the section "does not... affect the law relating to re-entry or forfeiture or for forfeiture or relief in case on non-payment of rent." In other words, it is not necessary to serve a section 146 notice in respect of arrears of rent.

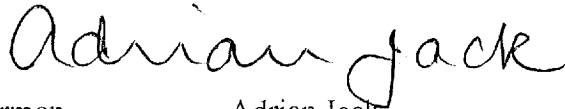
15. It follows in our judgment that none of the costs incurred by Parkfield fall within the terms of the lease (even if Parkfield otherwise had a claim in its own right), so that the tenant owes Parkfield nothing.

### **Costs**

16. Under regulation 9(1) of the Leasehold Valuation Tribunal (Fees) (England) Regulations 2003 the Tribunal has s discretion as to who should pay the fees payable to the Tribunal. In the current case the tenant has won and in our judgment it is right that the respondent should reimburse her the fees payable to the Tribunal in the sum of £50.

### **DETERMINATION**

- (a) The Tribunal accordingly determines that the tenant owes the respondent, Parkfield Marketing Ltd, nothing in respect of administration charges levied or to be levied in respect of the ground rent payable in 2007 to 2010.**
- (b) The Tribunal orders that Parkfield Marketing Ltd reimburse the tenant in the sum of £50 paid by way of fees to the Tribunal.**



Chairman

Adrian Jack

12th July 2010