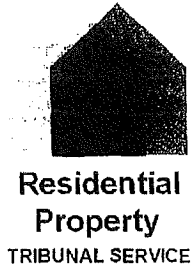


7005



Case Reference
LON/00AY/LSC/2011/0250

**THE LEASEHOLD VALUATION TRIBUNAL
FOR THE LONDON RENT ASSESSMENT PANEL**

**IN THE MATTER OF
THE LANDLORD AND TENANT ACT 1985 ("THE ACT")
SECTIONS 19 AND 27A**

**Re: 54-56 Norwood Road
London
SE24 9BH**

Applicants: Cormorant Limited
(Represented by Mr C Case, Hampton Wick Estates Limited)

Respondents: Mr A Masmoud (Flat 5) in person
Ms Y O'Carroll (Flat 3) in person
Mr D Cahill (Flat 54a) in person

The Tribunal: C Norman FRICS (Chairman)
W R Shaw FRICS
C Piarroux JP CQSW

Hearing: Held on 18 July 2011 at
10 Alfred Place London WC1

DECISION

1. This matter concerns the payability of an interim service charge account for the year ending 24 December 2011. Service of the interim service charge account was made during 2010.
2. The property comprises a block of eight flats.
3. The Tribunal was supplied by a sample lease of Flat 6. By clause 3(5) the lessee covenants to pay a proportionate share of the service charge. By clause 5(4) the landlord covenants to maintain redecorate renew rebuild and keep clean the main structure and gas and other pipework and cabling. By clause 7 (d) the landlord must at the commencement of each financial year (25 December) estimate the total expenditure. By clause 7(e) the tenant is then obliged to make payments on account of the estimated total expenditure. There are reconciliation provisions.
4. The interim account was for a total of £49,425. Of this sum, the Respondents initially challenged the following elements as made clear at the start of the hearing:

External Decoration £9,600
Roof Works £24,000
Internal redecoration £3,600
Surveyors' Fees £4,500

5. The Applicants had served a notice of intention to carry out major works on 27 March 2011. They had then obtained three quotations for the work. This ranged between £44,850 and £54,620.
6. The Respondents had initially complained of a failure to consult and the cost of works. However, during the hearing the Respondents stated that they accepted that the work was necessary and did not take issue with the cost. It therefore appeared to the Tribunal that it might be possible for the parties to settle their differences. The Tribunal therefore adjourned for 30 minutes and requested the parties to negotiate.
7. Happily, an agreement was reached between the parties as a result of which the Respondents withdrew their respective objections.
8. In the circumstances the Tribunal did not consider that an inspection was necessary.
9. The Tribunal considers that the sums shown in the interim service charge account are reasonable and payable as payments on account in accordance with the terms of the lease. The reasons are as follows. First, as to the major works expenditure, the Tribunal is satisfied that proper competitive quotations against a professional specification have been obtained and that these exceed the amount demanded as an on account payment. Secondly, the Tribunal considers that each of the other elements in the interim service charge account are reasonable, using its own

knowledge and experience. Thirdly, all the objections from lessees had been withdrawn.

10. This decision does not prevent any lessee from challenging the reasonableness, payability or consultation requirement compliance in future proceedings under sections 19, 20 and 27A of the Act or otherwise.

Orders Under Section 20C of the Act

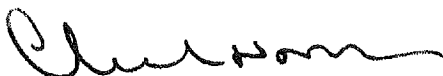
11. Section 20C of the Landlord and Tenant Act 1985 (inserted by the Landlord and Tenant Act 1987) provides:

“(1) A tenant may make an application for an order that all or any of the costs incurred ... by the landlord in connection with proceedings before a court or leasehold valuation Tribunal, or the Lands Tribunal ... are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.”

12. The Tribunal explained the nature of a section 20C Order as the lessees were unrepresented and had not made any such applications.
13. Thereafter each of the respondents made applications for such Orders.
14. The sole guidance as to how such applications are to be determined is contained in sub-section (3) as follows:

“The court or Tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.”

15. In the Tribunal’s judgment the only principle upon which the discretion should be exercised is to have regard to what is just and equitable in all the circumstances. This will include the degree of success of the tenant and the conduct of the parties.
16. Without wishing to criticise the Applicant, the Tribunal did consider that there were deficiencies in communication with the lessees and that these had contributed to the hearing becoming necessary. For that reason, the Tribunal considers it just and equitable to make Orders under section 20C of the Act in favour of each of the Respondents.
17. The Tribunal **ORDERS** that none of the costs incurred by the Applicant in connection with proceedings before the Leasehold Valuation Tribunal under case reference LON/00AY/LSC/2011/0250 are to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Respondents to this action.



C Norman FRICS
Chairman
23 July 2011