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**Residential
Property**
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Case Reference LON/00BE/LSC/2010/0845

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION
UNDER S27A AND S 20C OF THE LANDLORD AND TENANT ACT 1985**

Applicant: London Borough of Southwark (Landlord)

Respondent: Mrs F Okuku (Tenant)

Premises: 15 Lewes House, Green Hundred Road, Friary
Estate London SE15 1RP

Date of Application: transferred from County Court on 6 December 2010

Leasehold Valuation Tribunal: Mrs F J Silverman Dip Fr LLM
Mr A Lewicki MRICS
Mrs S Justice BSc

Date of hearing : 7June 2011

Applicant represented by: Ms E Bennett Litigation Officer

Respondent represented by : Mr Orey Leasehold representative

Decision

The Tribunal determines that Applicant's demand for service charges in respect of major works is, for the reasons set out below, reasonable.

The Tribunal makes no order under s20C Landlord and Tenant Act 1985.

The Respondent is ordered to repay to the Applicant their hearing fee for the Tribunal hearing.

- 1 The Applicant is the landlord of the premises known as 15 Lewes House Green Hundred Road Friary Estate London SE`15 1RP (the property). The Respondent is the assignee of the lease and thus the current tenant of the premises.
- 2 The Applicant has undertaken a major refurbishment of the estate of which the property forms part and by the lease under which the property is held the Respondent is obliged to contribute her share of the costs (Clause 2 (3)(a) and Schedule 3).
- 3 The Respondent failed to satisfy the demands for payment sent to her and proceedings were issued against her in the Lambeth County Court. Those proceedings were transferred to the Leasehold Valuation Tribunal by an order of the court dated 6 December 2010 so that the Tribunal could make a determination of the reasonableness of the Respondent's estimate of service charge.
- 4 Directions were issued by the Tribunal on 22 February 2011.
- 5 The Tribunal did not consider it necessary to inspect the property.

6 An application was also made for an order under s 20C Landlord and
Tenant Act 1985 .

7 The hearing of the matter took place on 7 June 2011. The Applicants
were represented by Ms Bennett and the Respondent by Mr Orey.

8 An agreed bundle of documents was placed before the Tribunal for its
consideration.

9 The Directions issued by the Tribunal on 22 February 2011 required the
Respondent (paragraph 3) to send to the Applicant a statement in response
by 19 April 2011. This was not done. The only communication sent to the
Applicant by the Respondent following the issue of Directions was a letter
(page 857) requesting further information, the latter being supplied by the
Applicant in the form of a Response (page 858). That being so , there is no
effective Response by the Respondent to the Application.

10 On the Respondent's behalf it was stated that she was asked at the
Directions hearing whether she intended to rely before the Tribunal on any
matter other than those set out in the Defence to the County Court action and
had said that she did not. It was stated on her behalf that the Respondent
intended her County Court Defence to stand as her response to the Tribunal.
However, her letter to the Applicant on page 857 makes no reference to that
Defence and the Defence was not included in the agreed bundle of
documents which , according to paragraph 7 of the Directions issued by the
Tribunal must contain (inter alia) 'all documentation relied on by the parties'.
The Respondent's representative said that the Respondent had received the
bundle prior to the Tribunal hearing but had not observed that her Defence
document was not included in the bundle.

11 A copy of the Defence was in the Tribunal's own file as a part of the
court file transferred to it by the court. The Tribunal rejected an application by
the Respondent to allow that document into the present proceedings
because it was now too late to do so. Further, the Respondent had had
ample opportunity since the issue of the Directions to serve a Response in

accordance with those Directions and had failed to do so and had also failed to ensure in accordance with the Directions that all documents on which she sought reliance were included in the hearing bundle. Having considered the County Court Defence which was in the Tribunal's own file, the Tribunal is of the opinion that no prejudice is caused to the Respondent by the exclusion of this document which essentially only made two points. The first was an enquiry for further information (which had been supplied by the Applicant), the second was a query about the cost of replacement windows which has at no time since that Defence was filed been raised with the Applicant by the Respondent.

12 The Tribunal therefore concludes that the Respondent has no effective defence or challenge to the Applicant's application.

13 The Tribunal then proceeded to require the Applicant to demonstrate that the contract for major works had been implemented following the correct statutory procedures and that the demand for charges served on the Respondent was in accordance with the relevant terms of her lease.

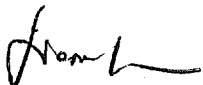
14 The Tribunal is satisfied that a valid notice was served under s20 Landlord and Tenant Act 1985 (page 634). The Applicant obtained six estimates for the work and accepted the lowest tender (page 166). A s20ZA dispensation was granted by the Tribunal (page 627) in respect of further consultations although residents meetings were held (page 525). There also exists an extension of time certificate (page 674).

15 The final accounts for the major works are produced on page 861 with the calculations showing the allocation of charges to various leaseholders on pages 874-6. The manner in which the calculations and apportionments was made by the Applicants was complex and although the Respondent had not prior to the hearing requested a breakdown of costs Mr Orey on behalf of the Respondent was permitted by the Tribunal to question the Applicant's representative about how this had been done. The Tribunal notes that the lease under which the property is held permits the landlord to use any

reasonable method of apportionment (page 71) and is satisfied with the Applicant's explanation of its figures.

16 The Respondent made an application under s20C Landlord and Tenant Act 1985 on the basis that as a result of the Respondent's county court defence being omitted from the hearing bundle the Respondent's case before the Tribunal had been prejudiced. The Respondent also resisted an application made by the Applicant for a refund of the Tribunal hearing fee on the grounds that owing to the lack of defence she did not feel she had benefited from a fair hearing.

17 The Tribunal rejects the Respondent's application for an order under s20C . It is the Respondent's duty to present her case to the Tribunal and this she had failed to do firstly by failing to file a Response in accordance with the Tribunal's Directions and secondly by failing to ensure that all documents on which she sought to rely had been included in the hearing bundle. The Applicant had been put to the expense of preparing and presenting a case to which there was no viable defence. For that reason the Tribunal orders the Respondent to repay the hearing fee (£150) to the Applicant.



Frances Silverman

Chairman

22 June 2011.