

**LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL**

**DETERMINATION BY THE LEASEHOLD VALUATION TRIBUNAL AS TO
JURISDICTION**

COMMONHOLD AND LEASEHOLD REFORM ACT 1993 (Section 168(4))

REF: LON/00BH/LBC/2011/0037

Address: 250 Carr Road, London E17 5EW

Applicant: Mr Cemal Yuce

Represented by: Centurion Law, Solicitors

First Respondent : Ms Alexia Berstatou

Represented by: Healys LLP, Solicitors

Second Respondent: HSBC

Represented by: Shoosmiths, Solicitors

Tribunal: Mrs JSL Goulden JP (Chairman)
Mr L Jarero BSc FRICS

Background

1. The Tribunal was dealing with an application under S168(4) of the Commonhold and Leasehold Reform Act 2002 ("the Act") for an order that a breach of covenant or a condition in the lease has occurred. Directions of the Tribunal were issued on 9 May 2011 and a hearing was listed for 23 June 2011.

2. On 16 June 2011, the Tribunal received an application by Shoosmiths, Solicitors on behalf of HSBC, as a mortgagee of 250 Carr Road London E17 5EW ("the property"), to be joined as a Respondent. This was approved on 16 June 2011 and the parties were notified.

3. The parties required a postponement of the hearing due to certain issues raised. On 21 June 2011, the postponement of the hearing was refused and the letter to the parties from the Tribunal stated, inter alia *"If it is correct, as appears to be agreed, that Cemal Luce is not Ms Berstatou's landlord then the application is misconceived and the tribunal has no jurisdiction to deal with it.at the hearing on 23 June 2011 the tribunal will consider only the extent of its jurisdiction"*.

The Hearing

4. At the hearing on 23 June 2011, the Applicant was represented by Mr P Gale of Counsel and Ms S Richards, Solicitor of Centurion Law. The First Respondent did not appear and was not represented. The Second Respondent was represented by Mr M Evans, Solicitor of Shoosmiths Solicitors.

5. Mr Gale said that Mr Cemal Yuce, then Applicant in the present application, had transferred part of the property to his son, Huseyin Yuce, in 2006 and therefore requested that Huseyin Yuce be joined as an Applicant. Mr Gale relied on the provisions contained in Residential Property Tribunal Procedure (England) Regulations 2006

6. The application was resisted by Mr Evans, for the Second Respondent who handed to the Tribunal office copy entries of Title Number EGL517894 which were dated 16 June 2011. The office copy entries appeared to show the transfer date as 18 December 2006, the same being registered on 22 February 2007. Mr Evans argued that the key word in the Regulations was "joined" and there could be no joining where the original Applicant had not been entitled to make the application. He thought that the Tribunal should construe the Regulations narrowly.

The Regulations

7. The relevant part of S 10 of the Residential Property Tribunal (England) Regulations 2006 states:

- (1) A person ("the potential party") may make a request to the tribunal to be joined as a party to the proceedings
- (2) Any request under paragraph (1)
 - (a) may be made without notice;
 - (b) must be in writing;
 - (c) must give reasons for the request; and
 - (d) must specify whether the potential party wishes to be treated as (i) an applicant or (ii) a respondent.
- (3) As soon as practicable after reaching its decision whether to grant or refuse a request under paragraph (1) the tribunal must
 - (a) notify the potential party of the decision and the reasons for it; and
 - (b) end a copy of the notification to the existing parties
- (4).....
- (5).....
- (6).....

The Tribunal's Determination

8. At the time of the application, the Applicant, Mr Cemal Yuce, had no legal standing, having transferred his interest to his son. On that basis, the Tribunal does not accept that Mr Huseyin Yuce can be joined as an Applicant under Regulation 10 set out above. The Tribunal had not been made aware of the true position until shortly before the hearing, and it was only at the hearing itself that fresh office copy entries of the freehold title showing Mr Huseyin Yuce were handed to the Tribunal.

9. Accordingly, the Tribunal determines that it has no jurisdiction to hear the present application before it and therefore dismisses the same.

CHAIRMAN..........

DATE.....23 June 2011.....