

7713



**HM Courts
& Tribunals
Service**

LEASEHOLD VALUATION TRIBUNAL
Case No.: CAM/34UF/LSC/2011/0128

Subject Property: 42, St Peters House, Bath Street, Northampton NN1 2SP

Applicant: Northampton Borough Council

Respondent: Peter Brown

**Date of Transfer from
Kettering County Court:** 22nd September 2011

Date of Decision: 28th March 2012

Application: Application for a determination of the reasonableness and liability to pay service charges (Section 27A Landlord and Tenant Act 1985)

Tribunal: Dr JR Morris (Lawyer Chair)
Mr GRC Petty FRICS
Mr P Tunley

Decision made following consideration of the documentation.

DECISION

Decision

The Tribunal found that following a meeting on the 5th March 2012 an Agreement was reached the terms of which are set out in a document signed by the Applicant on the 7th March 2012 and by the Respondent on the 9th March 2012. The Agreement relates to all the matters in issue which were the subject of the Application dated 22nd September 2011 for a determination of the reasonableness and payability of service charges pursuant to Section 27A Landlord and Tenant Act 1985. Following receipt of a copy of the Agreement and of a Consent Order to be put before the County Court the Tribunal decided that it did not have jurisdiction to deal with the matter further by reason of section 27A (4) (a) of the Landlord and Tenant Act 1985.

A copy of this decision will be sent to the County Court

Reasons

The Application

1. This Application is for a determination of reasonableness of charges by a Leasehold Valuation Tribunal by way of Transfer from the Kettering County Court 22nd September 2011 by District Judge Murdoch of Claim Number 1QT62671.

2. For the purposes of these proceedings the Claimant in the County Court is the Applicant and the Defendant is the Respondent.

Documents Provided

3. The following documents were provided:
 - Case Summary and Applicant's Statement of Claim
 - Respondent's Defence and Counterclaim
 - Applicant's Defence to Counterclaim
 - Copy Lease
 - Copy of Land Registry Entry Number NN98800
 - Correspondence
 - A copy of an Agreement between the parties signed by the Applicant on the 7th March 2012 and the Respondent on the 9th March 2012 received by the tribunal on the 14th March 2012
 - A copy of a Consent Order to be put before the County Court.

Background

4. Directions were issued on the 25th October 2011. On the 8th November 2011 the Respondent informed the Tribunal and Applicant that he was suffering from cancer and undergoing treatment and therefore requested additional time in which to prepare his case. The Tribunal requested an explanation of how the treatment would prevent the Respondent from complying with the Directions as no reply was received. A date for the Hearing was set for 3rd February 2012.
5. The Applicant stated in a letter to the Tribunal dated 29th November that it had not received a statement from the Respondent setting out the reasons for challenging the service charge as required by the Directions and therefore the Applicant was not able to respond accordingly. The Applicant stated that in the absence of the precise basis for the challenge the Applicant stated it would need to deal with each service charge item for the years in issue and requested further time in which to prepare. In a letter dated 30th November 2011 the Procedural Chair accepted the Applicant's suggested extension to the 30th December 2011 and the proposal to deal with each service charge item.
6. By a letter received on 5th December 2011 the Respondent applied to the Tribunal for an Adjournment to the end of April while he was undergoing treatment for cancer. In a letter received 23rd December 2011 the Applicant agreed to the adjournment.
7. The Tribunal appreciated the indisposition that the treatment will cause the Respondent and the understanding given by the Applicant in accommodating the Respondent's request that the case be adjourned until the treatment is complete.

However the Tribunal took into account that the Subject Property is registered in the name of Ann Brown who, although not a party to the County Court proceedings would be eligible to present the Respondent's case before the Tribunal being a joint tenant and the Respondent's spouse. In addition the Tribunal regularly has parties appearing in person before it and is able to guide them through the hearing to ensure their case is presented appropriately. It was therefore decided that an adjournment until the end of April was too long and that it will be to the advantage of both parties that the matter is dealt with sooner. A hearing was therefore scheduled for 16th March 2012.
8. On the 7th February 2012 the Applicant wrote to the Respondent with a copy to the Tribunal suggesting a meeting with a view to reaching an agreement on the issues

set out in the Application. On the 7th March the Applicant informed the tribunal that a meeting had taken place on the 5th March 2012 and that a compromise had been agreed, which the parties would confirm in writing and by a signed document.

9. On the 14th March 2012 the Tribunal received a copy of an Agreement signed by the Applicant on the 7th March 2012 and by the Respondent on the 9th March 2012 which related to all the matters in issue which were subject of the Application. On the 26th March 2012 the Tribunal received a copy of a Consent Order to be placed before the County Court relating to the matters set out in the Agreement. Therefore the Tribunal pursuant to section 27A (4) (a) Landlord and Tenant Act 1985, decided that it did not have jurisdiction to deal with the matter further. Any dispute as to the Agreement is likely to be a matter for the County Court as stated in the Consent Order.

JR Morris (Chair)

28th March 2012