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**LONDON RENT ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION UNDER [SECTIONS 27A & 20C OF THE LANDLORD AND TENANT ACT 1985] 2]**

**Case Reference:** LON 00BK/LSC/2012/0506

**Premises:** 9A Regis Court Melcombe Place Marylebone  
London NW1 6TG

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**Applicant(** Regis court Management Limited

**Representative:** Jonathan Hill c/o Robert Davies Partnership

**Respondent(s):** Ronan Tierney  
Aleksandra Tierney

**Representative:** In Person

**Date of hearing:**

**Leasehold Valuation Tribunal:** P L Leighton LLB Hons  
P M Casey MRICS

**Date of decision:** 9<sup>th</sup> October 2012

### **Decisions of the Tribunal**

- (1) The Tribunal determines that the sum of £15,691.94 is payable by the Respondent in respect of the service charges for the years 2007,2008,2009,2010 2011 and 2012 ]
- (2) The Tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985
- (3) The Tribunal determines that the Respondent shall pay the Applicant £350 within 28 days of this Decision, in respect of the reimbursement of the Tribunal fees paid by the Applicant]

### **The application**

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act as to the amount of service charges [payable by the Applicant in respect of the service charge years 2007 to 2012
2. The relevant legal provisions are set out in the Appendix to this decision.

### **The hearing**

3. The matter was determined in accordance with the directions on the paper track. The Applicant submitted a witness statement Mr Gabriel Hilu with exhibits. The respondents did not appear and made no written representations

### **The background**

4. The property which is the subject of this application is a one bedroom flat in a purpose built block of flats
5. The Tribunal did not consider that an inspection was necessary, nor would it have been proportionate to the issues in question ]
6. The Respondents hold a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. Under Clause 20 of Schedule 6 of the lease the Respondents are to contribute 4.41% towards the total annual service charge in two equal instalments on 1<sup>st</sup> June and 1<sup>st</sup> December in each year.

### **The issues**

7. The Tribunal identified the relevant issues for determination as follows:

- (i) The payability and/or reasonableness of service charges for the years 2007 to 2012

8. Having considered all of the documents provided, the Tribunal has made determinations as follows.

**The Tribunal's decision**

9. The Tribunal determines that the amount payable in respect of the year 2007/8 is £2911.26

**Reasons for the Tribunal's decision**

10. Mr Gabriel Hilu has produced the estimate and accounts for the year in question. The amount has been correctly demanded in two equal instalments as provided and not paid. No grounds have been put forward that the charges are unreasonable and the Tribunal therefore determines that they are payable

**The Tribunal's decision**

11. The Tribunal determines that the amount payable in respect of 2008/9 is £2987.64 .

**Reasons for the Tribunal's decision**

12. Mr Gabriel Hilu has produced the estimate and accounts for the year in question. The amount has been correctly demanded in two equal instalments as provided and not paid. No grounds have been put forward that the charges are unreasonable and the Tribunal therefore determines that they are payable

**The Tribunal's decision**

13. The Tribunal determines that the amount payable in respect of 2009/10 is £3,193.28.

**Reasons for the Tribunal's decision**

14. Mr Gabriel Hilu has produced the estimate and accounts for the year in question. The amount has been correctly demanded in two equal instalments as provided and not paid. No grounds have been put forward that the charges are unreasonable and the Tribunal therefore determines that they are payable

## Appendix of relevant legislation

### Landlord and Tenant Act 1985

#### Section 18

- (1) In the following provisions of this Act "service charge" means an amount payable by a Tenant of a dwelling as part of or in addition to the rent -
  - (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the Landlord's costs of management, and
  - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the Landlord, or a superior Landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose -
  - (a) "costs" includes overheads, and
  - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

#### Section 19

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
  - (a) only to the extent that they are reasonably incurred, and
  - (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;and the amount payable shall be limited accordingly.
- (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

#### Section 27A

- (1) An application may be made to a Leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to -
  - (a) the person by whom it is payable,
  - (b) the person to whom it is payable,
  - (c) the amount which is payable,
  - (d) the date at or by which it is payable, and
  - (e) the manner in which it is payable.

- (2) The application shall be made—
- (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
  - (aa) in the case of proceedings before a residential property tribunal, to a leasehold valuation tribunal;
  - (b) in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation tribunal;
  - (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
  - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
- (3) 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.

### **Leasehold Valuation Tribunals (Fees)(England) Regulations 2003**

#### **Regulation 9**

- (1) Subject to paragraph (2), in relation to any proceedings in respect of which a fee is payable under these Regulations a tribunal may require any party to the proceedings to reimburse any other party to the proceedings for the whole or part of any fees paid by him in respect of the proceedings.
- (2) A tribunal shall not require a party to make such reimbursement if, at the time the tribunal is considering whether or not to do so, the tribunal is satisfied that the party is in receipt of any of the benefits, the allowance or a certificate mentioned in regulation 8(1).

#### **Schedule 12, paragraph 10**

- (1) A leasehold valuation tribunal may determine that a party to proceedings shall pay the costs incurred by another party in connection with the proceedings in any circumstances falling within sub-paragraph (2).
- (2) The circumstances are where—
- (a) he has made an application to the leasehold valuation tribunal which is dismissed in accordance with regulations made by virtue of paragraph 7, or
  - (b) he has, in the opinion of the leasehold valuation tribunal, acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.

- (3) The amount which a party to proceedings may be ordered to pay in the proceedings by a determination under this paragraph shall not exceed—
  - (a) £500, or
  - (b) such other amount as may be specified in procedure regulations.
- (4) A person shall not be required to pay costs incurred by another person in connection with proceedings before a leasehold valuation tribunal except by a determination under this paragraph or in accordance with provision made by any enactment other than this paragraph.