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LONDON RENT ASSESSMENT PANEL

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION
UNDER SECTIONS 27A OF THE LANDLORD AND TENANT ACT 1985**

Case Reference: LON/00AM/LSC/2012/0765

Premises: Flats 3, 4 and 5, 34 Hertford Road, London N1
5SH

Applicant: Ms Theresa Thornber-Mann (Flat 3), Ms Valeria
Disaro (Flat 4) and Mr Peter Salmang (Flat 5)

Representative: In person

Respondent: Currell Investmens LLP

Representative: Mr Michael Paul of Currell Management LLP
(managing agents)

Date of hearing: 13.6.13

**Appearance for
Applicant:** None

**Appearance for
Respondent:** Mr Michael Paul of Currell Management LLP
(managing agents)

**Leasehold Valuation
Tribunal:** Ms N Hawkes
Ms S Coughlin MCIEH

Date of decision: 13.6.13

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Decisions of the Tribunal

- (1) The Tribunal determines that the Applicants' application dated 19.11.12 is dismissed pursuant to Regulation 11 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003.
- (2) The Tribunal determines, pursuant to section 10 of Schedule 12 to the Commonhold and Leasehold Reform Act 2002, that the Applicants shall pay costs in the sum of £300 which have been incurred by the Respondent in connection with the Applicants' application dated 19.11.12.

The application

1. The Applicants seek 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 Applicants in respect of the service charge year 2012.
2. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

3. The Applicants did not appear at the hearing and were not represented. The Respondent was represented by Mr Michael Paul of Currell Management LLP (the Respondent's managing agents) at the hearing.

The background

4. The property which is the subject of this application is a flat in a block which comprises a public house, the Duke, on the ground floor with six residential flats above.
5. The Applicants holds long leases of the property which require the landlord to provide services and the tenants to contribute towards their costs by way of a variable service charge.

The determination

6. The Applicants have failed to comply with the Tribunal's directions dated 12 December 2012 in that they have failed to serve their statement of case by 10 May 2012, or at all, and have not made a request for an extension of time in which to do so. As a result, the Respondent has been unable to respond to the application as directed and the Tribunal cannot fairly make a determination without evidence or submissions from the parties.
7. By notice dated 23rd May 2013, the Applicants were informed that, having regard to these matters, the Tribunal was minded to dismiss the Applicants'

application pursuant to regulation 11 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003, which is set out in full in the appendix.

8. They were informed that they could make a request to appear and be heard on the question of the dismissal; that any such request must be made in writing to the Tribunal with a copy sent to the Respondent by no later than 30 May 2013 and that if they did not make such a request their application may be dismissed after 13 June 2013, without further notice.
9. The Applicants were also informed that, if they did not make such a request, the dismissal hearing would take place on 13 June 2013 at 10 am. The Tribunal has not received any request from the Applicants to appear and be heard or any communication from the Applicants. Further, none of the Applicants attended the hearing on 13 June 2013 which commenced at 10.30am.
10. The Tribunal is satisfied that, the Applicants having acted unreasonably in failing to comply with the directions or otherwise communicate with the Tribunal, the Applicants' application is an abuse of the process of the Tribunal. The Tribunal therefore determines that the Applicants' application dated 19.11.12 is dismissed pursuant to Regulation 11 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003.
11. At the hearing, the Respondent sought a determination that the Applicants should pay costs incurred by the Respondent in the sum of £300 in connection with these proceedings and produced a schedule showing a breakdown of these costs.
12. The Tribunal is satisfied that costs in the sum of £300 have been incurred by the Respondent in connection with these proceedings. Having dismissed the application on the grounds that the Applicants have behaved unreasonably and the application is an abuse of process, the Tribunal determines that the Applicants shall pay the Respondent's costs in the sum of £300.

Chairman: Naomi Hawkes

Date: 13.6.13

Appendix of relevant legislation

Commonhold and Leasehold Reform Act 2002

Schedule 12 LEASEHOLD VALUATION TRIBUNALS: PROCEDURE

7 Dismissal

Procedure regulations may include provision empowering leasehold valuation tribunals to dismiss applications or transferred proceedings, in whole or in part, on the ground that they are—

- (a) frivolous or vexatious, or
- (b) otherwise an abuse of process.

10 Costs

(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.

Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003/2099

11. Dismissal of frivolous etc. applications

(1) Subject to paragraph (2), where—

(a) it appears to a tribunal that an application is frivolous or vexatious or otherwise an abuse of process of the tribunal; or

(b) the respondent to an application makes a request to the tribunal to dismiss an application as frivolous or vexatious or otherwise an abuse of the process of the tribunal,

the tribunal may dismiss the application, in whole or in part.

(2) Before dismissing an application under paragraph (1) the tribunal shall give notice to the applicant in accordance with paragraph (3).

(3) Any notice under paragraph (2) shall state—

(a) that the tribunal is minded to dismiss the application;

(b) the grounds on which it is minded to dismiss the application;

(c) the date (being not less than 21 days after the date that the notice was sent) before which the applicant may request to appear before and be heard by the tribunal on the question whether the application should be dismissed.

(4) An application may not be dismissed unless—

(a) the applicant makes no request to the tribunal before the date mentioned in paragraph (3)(c); or

(b) where the applicant makes such a request, the tribunal has heard the applicant and the respondent, or such of them as attend the hearing, on the question of the dismissal of the application