

LON/00AM/LSC/2005/0051

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION
UNDER SECTIONS 27A OF THE LANDLORD & TENANT ACT 1985
(AS AMENDED)**

Applicant: London Borough of Hackney

Respondents: Mr R Krozer

Re: 1st Floor Flat, 10 St Helier Court, De Beauvoir Estate, London, N1 5SD

Application received 18 March 2005

Hearing date: 27 June 2005

Appearances: Ms A Oakes of Counsel) for Applicant
Ms J Cassell of London Borough of Hackney)
Mr A Kesarisingh)

The Respondent did not attend and was not represented

Members of the Leasehold Valuation Tribunal:
Mrs C A Lewis FCI Arb
Mr M A Mathews FRICS
Mr A D Ring

1st Floor Flat, 10 St Helier Court, De Beauvoir Estates, N1

Preliminary

1. This was an application by the London Borough of Hackney (“the Applicants”) dated 17 March 2005 for a determination of liability to pay service charges under Section 27A of the Landlord and Tenant Act 1985 (“the Act”).
2. A Pre-Trial Review had been held at which the Respondent lessee was neither present nor represented and did not submit any written representations. The Applicants had been represented by Wragge and Co.
3. The Tribunal did not feel it necessary to visit the property for inspection, but noted from the documentation that it comprised a flat of 2 rooms, kitchen and bath/wc.
4. The Respondent holds the property under the terms of a long lease dated 4 December 1989, assigned on 8 August 1996. The provisions for the payment of the service charge and insurance are contained in the lease.

The Hearing

5. At the hearing, the Respondent was again neither present nor represented and did not submit any written representations.
6. The Applicants were represented by Ms A Oakes of Counsel, and Ms J Cassell and Mr Kesarisingh, Leasehold and Income Officers, gave evidence.
7. The matters before the Tribunal related to the service charge years commencing:-

1 April 2002-2003

1 April 2003-2004

1 April 2004-2005

8. Ms Oakes explained that the Applicants had issued proceedings in the County Court in 2004 in relation to the service charges for the year 2002-2003 and part of 2003-2004 based on estimated figures and had received judgement from the Court.

Service Charge Year 2002-2003

9. Estimated service charges for that year were £476.30, and these figures had been before the County Court. Since the proceedings the actual service charge figures had become available and these amounted to £635.17. The Applicants therefore sought determination in respect of the difference being £158.87, less the ground rent of £9, that is £149.87.

Service Charge Year 2003-2004

10. The estimated service charge for the year was £498.97. The County Court had looked at 1/3 of that payment covering the period 1 April 2003-31 July 2003. The Applicants required the Tribunal to determine the balance of the service charge for the period 1 August 2003-31 March 2004. Taking into account actual expenditure and discounting the ground rent the outstanding payment was £309.91.

Service Charge Year 2004-2005

11. The Applicants sought the Tribunal's determination on the Respondent's estimated total for service charges, excluding ground rent, of £588.24.

12. The total figure on which the Applicants required the Tribunals determination for the three service charge years was therefore £1048.02.
13. Ms Oakes considered that there was no issue as to reasonability as the Respondent's had not raised the matter or communicated with the Tribunal at all.
14. Ms Cassell and Mr Kesaringh told the Tribunal that 13 out of the total of 24 tenants at 10 St Helier Court were long leaseholders, and that there were no significant service charge proceedings for arrears in the County Court other than this case. They considered that the estate, which had been built in 1968, had been reasonably well maintained. They explained that there had been major works which had already been the subject of County Court proceedings in March 2005. The subject flat had been sub-let for some years and no service charges at all had been paid since the property had been assigned to the Respondent in 1996. The Applicants had endeavoured to trace the Respondent without success and their next step was to obtain forfeiture.

Determination

15. The Tribunal is satisfied that the Respondent is liable to pay the service charges under the terms of the lease. As to the amount, the Tribunal is satisfied from their examination of the accounts, and the evidence given at the hearing on behalf of the Applicants, that the charges are reasonable, and taking account of the County Court Judgement, the Tribunal determines that the remaining amount of £1048.02 is payable.

Reimbursement of Fees

16. Ms Oakes asked the Tribunal to order the Respondent to reimburse the Applicant's fees under Regulation 9 of the Leasehold Valuation Tribunal (Fees) (England) Regulations 2003. She brought to their attention the Respondent's failure to make any payment since taking assignment of the property in 1996, and said that the Respondent had been given numerous chances to pay and there was a County Court Judgement against him.

17. In all the circumstances the Tribunal Orders that the Respondent shall re-imburse the Applicants Fees of £250.

CHAIRMAN.....CA Lewis

DATE.....18 July 2005