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LON/00BG/LAC/2006/0005

THE RESIDENTIAL PROPERTY TRIBUNAL SERVICE

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER THE COMMONHOLD AND LEASEHOLD
REFORM ACT 2002 SCHEDULE 11**

Property: Flat 21, 12 Leyden Street, London, E1 7LL

Applicant: Mr Richard Nuttall

Respondent: Leasehold Property Management Ltd

**Determination without a hearing under Regulation 13 of the Leasehold
Valuation Tribunals (Procedure) (England) Regulations 2003**

Tribunal: Ms L M Tagliavini

Premises: Flat 21, 12 Leyden Street, London E1 7LL

Applicant: Square Mile Property Management Limited
(On behalf of the lessee Mr. R. Nuttall)

Respondent: Leasehold Property Management Limited

Preamble:

This is an application made pursuant to Schedule 11 to the Commonhold and Leasehold Reform Act 2002 seeking a determination of the payability of administration charges accrued in 2005/06 in respect of alleged late payments for car parking, ground rent and insurance. By directions dated 14/6/06 (subsequently amended) the Tribunal listed this application for a determination on the papers.

It is the Applicant's case that administration charges claimed by the Respondent are not payable because (i) they do not comply with the statutory requirements pursuant to para. 4(1) of the 2002 Act and the Applicant is entitled to withhold payment of such sums and (ii) that sums paid have been wrongly returned by the Respondent in any event. The Respondent submits that (i) the 2002 Act permits the landlord to claim additional sums from the leaseholder if the rent due is not paid by the date specified; (ii) that the late payment fee has been reduced from £88.13 to £35.25 on 23/1/06 and (iii) that Final Notices demanding payment were sent containing the Schedule of Rights and Obligations as required under the 2002 Act.

Decision:

The Tribunal was provided with a copy of the relevant lease for the subject premises but not with any agreement relating to the use of any car parking space despite having requested that a copy of any agreement be supplied. Unfortunately, both parties have failed to articulate their Statement of Case and Reply clearly and concisely as directed by the Tribunal. However, it is noted that the Respondent takes no issue with the charges in relation to Flat 21, and states:

"The property for which this charge is made is car parking space number 2, 12 Leyden Street only. There is no dispute in respect of Flat 21, 12 Leyden Street."

Further, it is not clear entirely to the Tribunal whether the Applicant accepts the sums claimed for rent and ground rent are due and have been paid late or whether he asserts that in fact they have been paid but the cheques sent either not cashed or returned; (see letter of 26/8/05). Similarly, the Applicant has failed to set out clearly and individually what administration charges he objects to and why, but has instead sent in a bundle of invoices and documents bearing different dates and relating to different heads of payments.

In the absence of any copy agreement in respect of the car parking the Tribunal is unable to determine as to whether there is any liability to pay administration charges in respect of car parking fees and that part of the Applicant's case is dismissed.

Further, the Tribunal notes that the documents supplied by the parties relate either to Flat 23, the car parking space allocated to the Applicant or refers to unidentified invoices and charges. It appears to the Tribunal that in light of the Respondent's concession that the only dispute arises out of the car parking space provided to the Applicant and in view of the lack of clarity of the Applicant's papers and Statement of Case the Tribunal determines that there is no live issue to be decided and accordingly makes no finding on this part of the application.

Accordingly the Tribunal determines that:

1. The late payment charges claimed by the Respondent relating to late payment of charges (other than car parking) up to the 23/5/06 (the date of the Applicant's application) are conceded by the Respondent as not being in dispute and are therefore not payable by the Applicant.
2. The application in relation to the late payment charges relating to the car parking space allocated to the Applicant up to 23/5/06 is dismissed due to the Applicant's failure to provide a copy of the relevant agreement in relation to the car parking space.

Chairman:


LM Tagliaivini

Dated: 10/10/06