

SOUTHERN LEASEHOLD VALUATION TRIBUNAL

In the matter of Section 168(4) of the Commonhold & Leasehold Reform Act 2002

and

In the matter of 9 Cairo Court, Manilla Crescent, Weston super Mare

Case Number: CHI/00HC/LBC/2006/0010

BETWEEN

Mr J H Edwards

Intending Applicant

and

Mr R Neale

Intended Respondent

Decision

Issued 22nd July 2007

Tribunal

Mr R P Long LLB (Chairman)
Mr M J Ayres FRICS

1. Section 168(4) of the Commonhold & Leasehold Reform Act 2002 (“the Act”) provides that:

‘a landlord under a long lease of a dwelling may make an application to a leasehold valuation tribunal for a determination that a breach of covenant or condition in a lease has occurred’.
2. On 24th October 2006 Mr R J Edwards submitted an application to the Tribunal pursuant to section 168(4) of the Act for a declaration that Mr Ray Neale, the tenant of flat 9 Cairo Court Weston super Mare had been guilty of breaches of the covenants on his behalf contained in a lease dated 20th December 1971 made between Cairo Hotels Limited of the one part and Herbert Charles Simpson of the other part. The breaches alleged consisted of a failure to make payments of service charges and of rent in accordance with the terms of the said lease.
3. The application stated that Mr R J Edwards made it in the capacity of attorney for the landlord Mr John Henry Edwards.
4. Directions were given on 27th October 2006 that provided for the matter to be dealt with upon consideration of the papers and without a hearing. The Applicant sent documents to the Tribunal on 29th November 2006 in accordance with those directions. No communication was received from the Respondent.
5. The matter fell for consideration by the Tribunal on 16th January 2007. It noted first that no copy of the Power of Attorney under which Mr Edwards purported to act had been provided to it. Secondly it concluded that it required further information to enable it to conclude its consideration of the matter.
6. Accordingly the Tribunal issued further directions on 23rd January 2007 following that consideration that required the applicant to produce a properly certified copy of the power of attorney and certain further copy documents relating to the alleged breach. These documents were required to be produced by Friday 23rd February 2007.
7. On 15 February the Tribunal received a letter from Messrs Kelcey & Hall that stated that they acted for a purchaser of the reversion to Cairo Court from John Henry Edwards and that the matter had been completed on 21st December. They enquired about the outcome of the application to the Tribunal, and were provided with a copy of the directions issued on 23rd January. Since that time, although further correspondence has taken place, Messrs Kelcey & Hall have been unable to provide either a certified copy of the Power of Attorney or any of the further copy documents that he Tribunal required.
8. Eventually the Tribunal notified Messrs Kelcey & Hall by letter on 3rd July 2007 that subject to any representations that they may wish to make by 10th July 2007, it was minded to determine that there was no valid application before it. This was on the ground indicated in earlier correspondence that no

copy of the Power of Attorney said to empower Mr R J Edwards to make the application had been produced to it.

9. No representations have been received from Messrs Kelsey & Hall in response to that indication. Section 168(4) of the Act states that the application is to be made by a landlord. The landlord at the time was Mr J H Edwards, and whilst it accepts that such an application might properly have been made by a person holding a power of attorney on his behalf that empowered him or her to make it on Mr J H Edwards behalf, no evidence at all of the existence of any power of attorney in favour of Mr R J Edwards, still less a copy of one in his favour conferring power to make this application upon him has been produced.
10. The Tribunal therefore determines that there is no valid application before it upon which it may rule.



Robert Long
Chairman

19th July 2007