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LON/00AF/LVM/2007/0001

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION UNDER SECTION 24 OF THE LANDLORD AND TENANT ACT 1987 (AS AMENDED)

Applicant: MR. ALEXANDER THOMAS JOHNSTONE (TENANT)

Respondent: MR. BERT McGROARTY (LANDLORD)

Re: 72 ANERLEY PARK, LONDON SE20 8NQ

Application received: 6TH MARCH 2007

Determination on paper: 11TH MAY 2007

Members of the Leasehold Valuation Tribunal:

MRS J S L GOULDEN JP

MRS A FLYNN

DR. A M FOX BSc PhD MCIArb

REFERENCE: LON/OOAF/LVM/2007/0001

PROPERTY: 72 ANERLEY PARK LONDON SE20 8NQ

Background

1.The Tribunal was dealing with an application under S24 of the Landlord and Tenant Act 1987 ("the Act") for variation of an Order appointing a manager so that the period is extended.

2.The original Order of the Tribunal was dated 18 May 2005. By that Order, Mr S Dothie MIRPM of Northleach Property Management Ltd was appointed Receiver and Manager of 72 Anerley Park London SE20 8NQ ("the property") for a period of 2 years from 1 June 2005 to 31 May 2007.

3.The property is a 4 storey Edwardian House converted into 3 flats, all of which have been sold on long leases. The Applicant, Mr A T Johnstone, occupies the top floor flat. The Respondent landlord is Mr B McGroarty. The other two tenants are Ms J Watt (basement flat) and Mr C Fortune (ground floor flat), neither of whom have applied to be joined as parties to the application.

4.A Pre-Trial Review was held on 29 March 2007 at which Mr Johnstone and the Manager, Mr Dothie, appeared.

5.In Directions of the Tribunal dated 29 March 2007 , it was noted:-

"The Tribunal had notified Mr McGroaty, the Respondent landlord, of the PTR but had received no correspondence from him. The Tribunal had also notified the other two leaseholders. Mr Craig Fortune of the ground floor flat had written to say he did not wish to appear or be represented at the Pre Trial Review. Ms Watt referred to the costs of a damp proof course she had installed in her basement flat. Neither leaseholders indicated whether or not they opposed or supported the application to extend the term (length) of the management order, nor did they apply to be joined as parties.

At the request of the Tribunal Mr Dothie reported on his period as manager. He had arranged the insurance of the building. He collects ground rents and passes them on to the Respondent with

whom he has some contact. His only source of remuneration comes from the insurance commission. He intends to inspect the property again in April 2007 and to arrange for necessary external repair/decoration works. He intends to supervise the works and to charge a reasonable fee, all costs to be recovered from the leaseholders on an indemnity basis, in accordance with the Management Order. His firm adheres to the RICS Code of Management Practice. There had been no major problems with the management of the property, but there is little for him to do given the matrix of the leases. Mr Johnstone concurred with this and considered matters had improved and the sale of one flat within the building was evidence of this. He sought an extension of the order for as long as possible, certainly for 5 years. Neither sought any variation to the wording of the order"

6.Directions were issued for a Paper Determination unless any of the parties requested an oral Hearing. No such request was received.

7.A Paper Hearing was held on 11 May 2007. The issues before the Tribunal are as follows:-

1. Should the Management Order be extended?
2. Should fees be reimbursed?

Should the Management Order be extended?

8.A letter to the Tribunal dated 21 March 2007 from Ms J Watt (tenant of the basement flat), did not address the specific question of whether the Management Order should be extended by the Tribunal, but referred to an outstanding dispute in respect of damp proof works, for which she had paid £8,000 and in respect of which she required reimbursement from the other two tenants in respect of their proportion.

9.In an email to the Tribunal dated 9 April 2007 Ms J Watt said that she *"strongly objected to re-election if the outstanding issues related to the property that I indicated in my letter are not resolved prior".*

10.All the other interested parties had the opportunity to object to the extension of the Management Order, but did not take the opportunity to do so. Ms Watt did not present a statement of case

as directed and has not offered any concrete alternative management option.

11.The Tribunal determines that under S24 of the Act, Mr Dothie is to be the Receiver and Manager of the property for a period of two years with effect from 1 June 2007. The terms of the appointment are set out in the Order annexed to the Tribunal's Decision dated 8 May 2005.

Should fees be reimbursed?

12.The Applicant had applied for reimbursement of the fees incurred in making the present application before the Tribunal and the Tribunal's Directions indicated that this would be considered. However no submissions were received from any party.

13.In these circumstances, the Tribunal exercised its discretion and declines to make an Order for the Respondent to reimburse to the Applicant the application and/or Hearing fees (if any) or any part thereof.

CHAIRMAN.....

DATE.....11 May 2007.....