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**LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL**

BIR/00CW/LBC/2010/0004

*DETERMINATION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER
SECTION 168(4) OF THE COMMONHOLD AND LEASEHOLD REFORM ACT 2002*

Applicant: Mocnello Ltd (freeholder)
Respondent: Mr C M W Stretton (leaseholder)
Subject property: 10 Grafton House
Olive Avenue
Parkfield
Wolverhampton
WV4 6AQ
Application to LVT: 10 May 2010
Member of the Tribunal: Professor N P Gravells MA
Date of determination: - 8 JUL 2010

Introduction

- 1 This is a determination on an application under section 168(4) of the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act") made to the Leasehold Valuation Tribunal by Mocnello Ltd, the freeholder of the property at 10 Grafton House, Olive Avenue, Parkfield, Wolverhampton WV4 6AQ ("the subject property"), for a determination that Mr C M W Stretton, the leaseholder of the subject property, has breached a number of covenants in the lease.
- 2 By a lease dated 13 January 2004 the respondent was granted a lease of the subject property for a term ending on 31 December 2064.
- 3 The application was dated 7 May 2010 and was received by the Tribunal on 10 May 2010.
- 4 The Tribunal issued Directions on 18 May 2010. As part of those Directions, the Tribunal indicated that unless, no later than 20 June 2010, either party made a written request for a hearing, the Tribunal intended to proceed without a hearing, in accordance with the provisions of regulation 13 of the Leasehold Valuation Tribunal (Procedure) (England) Regulations 2003 (as amended).
- 5 Having received no request for a hearing, on 21 June 2010 the Tribunal wrote to the parties, indicating that it would determine the application on 1 July 2010 without a hearing and on the basis of the written representations submitted by the parties.

Representations of the parties

Representations of the applicant

- 6 The applicant, by its agent F & L Adams, alleges that the respondent leaseholder is in breach of covenants in the lease relating to (i) the payment of rent, (ii) the reimbursement of insurance premiums paid by the applicant freeholder and (iii) the payment of service charges.

Rent

- 7 The applicant alleges that the respondent has failed to pay ground rent due on 24 June 2009 and 25 December 2009; and that as at 24 May 2010 the total due and unpaid was £200.00.
- 8 On that basis the applicant alleges that the respondent has breached clause 9.1 of the lease, which provides:

"The Tenant shall pay [the half-yearly rent of one hundred pounds] to the Landlord in advance on the Payment Dates"

Insurance premiums

- 9 The applicant alleges that the respondent has failed to pay sums in respect of insurance premiums due on 1 April 2008, 1 April 2009 and 1 April 2010; and that as at 24 May 2010 the total due and unpaid was £511.59.

10 On that basis the applicant alleges that the respondent has breached clause 23.4 of the lease, which provides:

"The Tenant shall pay to the Landlord on demand a proper proportion ... of the premium or premiums which the Landlord pays in compliance with his covenant to insure in this lease."

Service charge payments

11 The applicant alleges that the respondent has failed to pay monthly instalments of the interim (estimated) service charges since January 2009; and that as at 24 May 2010 the total due and unpaid was £850.00.

12 On that basis the applicant alleges that the respondent has breached clause 9.2 of the lease, which provides:

"The Tenant shall pay the Service [being the Tenant's fair proportion of the service charge costs payable in accordance with Schedule 4 to the lease] to the Landlord."


Representations of the respondent

13 The respondent does not dispute any of the allegations set out in paragraphs 6 to 12 above. Rather he states that he is currently unemployed and seeking financial assistance.

Determination of the Tribunal

14 In respect of the alleged non-payment of rent the Tribunal is satisfied that the applicant has complied with the procedural requirements set out in section 166 of the 2002 Act (notification to leaseholder that rent is due).

15 On the basis of the written representations and evidence submitted to the Tribunal, the Tribunal determines that the respondent has breached the covenants in clauses 9.1, 9.2 and 23.4 of the lease.

Signed 
(Professor Nigel P Gravells (Chairman))

Dated **- 8 JUL 2010**