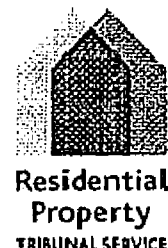


**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
SOUTHERN RENT ASSESSMENT PANEL  
LEASEHOLD VALUATION TRIBUNAL**



Section 27A Landlord and Tenant Act 1985

Application for a determination of liability to pay service and reasonableness of charges

**DECISION AND REASONS**

**Case Number:** CHI/00HH/LSC/2010/0016

**Property:** 13 Dukes Close, Paignton, Devon TQ3 3YW

**Applicant :** Gordon Reginald Clive Friend

**Respondent :** Riviera Housing Trust Limited

**Date of Application:** 25<sup>th</sup> January 2010

**Tribunal Members:** Miss Cindy Alpona Rai LLB Solicitor Chairman  
Mr Timothy Nicholas Shobrook BSc. FRICS  
Chartered Surveyor (Valuer Member)

**Date of Decision:** 6<sup>th</sup> September 2010

## SUMMARY OF DECISION

1. The Tribunal finds that:-
  - a. the costs of fencing repairs although intrinsically reasonable for the repairs which were undertaken, is not recoverable because the repairs carried out are not of a reasonable or acceptable standard. However if the defects are remedied without further charge to the tenants so that the fence is properly repaired then on completion of such rectification, so that the fence is put into the state and condition that it should be in had the initial repairs been of a satisfactory standard an amount equivalent to the invoiced costs would be recoverable.
  - b. The costs of the installation of the new Digital TV system are reasonable and recoverable
  - c. £67.38 can be recovered towards the costs of the replacement lighting'
  - d. All of the estimated costs which are apparently also the actual costs of the installation of the CCTV cameras are reasonable and recoverable when included within the Service Charges.

## BACKGROUND

2. Clive Friend, the Applicant, attended a pre trial review with representatives from Riviera Housing Trust Limited the Respondent on the 10<sup>th</sup> March 2010 following which hearing John Tarling as procedural Chairman of the Tribunal issued Directions dated 10<sup>th</sup> March 2010 ("the Directions").
3. The matters upon which the Tribunal was asked to make a determination were set out and listed in paragraph 1 of the Directions and included the three specific items included in the Certificate of Annual Costs and Service Charges for the Year ending 31<sup>st</sup> March 2009 which are set out below:-
  - a. Fencing Repairs £826.38

b.	New communal Digital TV system	£1,428.87
c.	Repairs to Communal Lighting	£80.86
	Total	£2,336.11

4. In addition Clive Friend also challenged the costs of the new CCTV system in respect of which a consultation exercise had been carried out. The system has been installed and the Applicant's share of the cost is known to be £602.44 but no demand for payment has yet been made as the Certificate of Annual Costs and Service charges for the Year ending 31<sup>st</sup> March 2010 had not been issued at the time the Directions were issued.
5. It is recorded in the Directions that Clive Friend admitted that he does not challenge his legal liability to pay the disputed amounts, however he challenges the amounts which he is being asked to pay for the work that has been done which he says are excessive. He agrees that the lease which entitles him to occupy his flat also entitles the Landlord to recover each of the items which he has disputed.
6. It was proposed in the Directions that the Tribunal would determine the application without an oral hearing unless either party objected within the specified time limit set out therein. Neither party subsequently objected and therefore the Tribunal has determined this application on the basis of the written evidence supplied to it with the application and following the issue of its Directions and without an oral hearing.

### **INSPECTION**

7. 13 Dukes Close ("the Property") is one of six flats in a small mixed development of town houses and flats. The construction appears to be relatively modern. The Tribunal inspected the external areas only paying particular regard to the fencing, lighting and CCTV installation. The Property is in a semi-detached block which adjoins a small terrace of town houses. The fencing which is part of the subject of this application

encloses the rear garden and drying area. The CCTV cameras situate and affixed to the exterior of the block were clearly visible at the side and the front of the block. The Tribunal did not inspect the common internal areas of the block.

### **Determination**

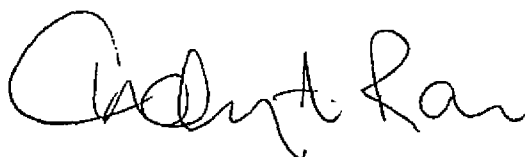
8. Fencing - From its inspection of the fence enclosing the rear garden the Tribunal determined that the repairs works which had apparently recently been carried out to repair the fence are not of a reasonable standard. The fence is constructed of wooden posts between which vertical slatted timber panels are affixed to horizontal timber frames. It was insecure both at the base of the timber supports and at the attachments to the vertical posts. It was apparent to the Tribunal that the quality of the workmanship was poor. One or two timbers were rotten at the base. Several of the vertical posts were insecure. Some slats were irregular in height and were split. Some nails protruded badly. On the basis of its assessment of the quality of the repair works carried out the Tribunal finds also that the cost of the works was excessive. It is suggested that remedial works should be carried out at the Landlord's expense to remedy the existing elements of disrepair. Once the works are completed so that the fence is made secure and the defects identified are remedied it would be reasonable for the costs of the fencing referred to and itemised in the Directions to be recovered from the Applicant. Alternatively if no such remedial works are carried out no charge is reasonably recoverable on account of the poor standard of the works undertaken prior to the date of this application.
9. Digital TV - Although the Respondent had commenced consultation as is evidenced by a letter dated 5<sup>th</sup> December 2008 a decision was subsequently made by the Landlord not to continue with such consultation as the total cost of the works recoverable from any tenant was less than the statutory minimum figure of £250 referred to in section 6 of The Service Charges (Consultation Requirements) (England) Regulations

2003 ("the Regulations"). For this reason the reference in the Application to the lack of consultation is not relevant in respect of these costs as there is no legal requirement for the Landlord to consult the tenants in relation to these works. Whilst the Tribunal is not unsympathetic to the reason for the Applicant's dissatisfaction in relation to these costs and accepts that it must be confusing for elderly residents to receive consultation notices and subsequently for the consultation process to stop without a proper cogent explanation being offered to explain why this has happened. The costs of the works carried out do appear to the Tribunal to be reasonable. It is accepted that the previous government have been encouraging a countrywide switch to digital television so it would appear to be reasonable for a Landlord to consider changing to a digital TV system sooner rather than later, to ensure a continuity of service for all residents. For these reasons the Tribunal determines that these cost are reasonable.

10. The Applicant has also queried the costs of the repairs to the communal lighting. Whilst it is not disputed that the Applicant's claim that the individual costs of a light bulb would not be significant it would appear from the evidence supplied and in particular RHT9 which is a copy of a contractors order dated 15<sup>th</sup> February 2010 and contained within the Respondents bundle, includes a check of all communal lighting in the block and the replacement of parts specific to two separate lights. The Tribunal are sceptical as to the justification of an arbitrary 20% uplift in relation to the costs, which has been added to the priced invoice. In the absence of any satisfactory explanation for this uplift it determines that £67-38 of the cost is allowable and recoverable from the Tenant.
11. The Applicant has also asked that the Tribunal determine if the intended charge in respect of the proposed works to be invoiced in the next service charge year is reasonable. The Directions refer to only the costs of the CCTV installation having been specifically challenged. In the application Clive Friend states that he does not "want it". It is not known however what element of the cost Clive Friend considers to be unreasonable. He

offers no other evidence to explain this. All that he has stated is that "he has not been given any choice as to whether or not it infringes on his privacy".

12. The only letter received from the Applicant following the issue of the Directions was dated 13<sup>th</sup> July 2010 and contains no further reasons as to why he has challenged this cost. The only cameras which the Tribunal could inspect were those located on the exterior walls of the block. Cameras were attached to each elevation of the building. The Tribunal does not know how many cameras may be situated within the building attached to the walls of the internal communal areas. Therefore it is not easy for it to determine if the apparent proposed costs of £602.44 which is the figure referred to both in the Directions (so presumably agreed by the parties) and the estimated costs at Page 81 of the Respondent's bundle is reasonable. However given that the actual costs appear to coincide with the estimated cost and that the tenant has been consulted and that regard has been had to the observations made, including those made by Clive Friend it determines that the costs are reasonable.



**Cindy Alpona Rai LLB**  
**Chairman**