

RESIDENTIAL PROPERTY TRIBUNAL SERVICE
Southern Rent Assessment Panel
And
Leasehold Valuation Tribunal

Case number CHI/OOMW/LCP/2009/0008

Applicants Ennersdale Investments Limited

Respondents 61-67 Barton Close Residents Company Limited.

Date of Application 14th September 2009

Hearing date Monday 25th January 2010

Decision

Decision of the Tribunal:

The Tribunal considered this matter on the papers alone. The Tribunal dismissed the application and made no order as to costs.

Summary:

1. This was an application brought under the Commonhold and Leasehold Reform Act 2002 [CLRA 2002] section 88 for a determination as to the amount of statutory costs payable to the landlord.
2. The application is dated 14th September 2009.
3. On 21st September 2009 the Solicitors acting for the Applicants sent in a copy of a lease.
4. Directions were given by the Tribunal on 23rd September 2009. These provided as follows;

The Applicants shall within 21 days provide the Respondents and the Tribunal with a bundle setting out full details of their claim for costs and the background to the matter to include

Any relevant client care letters

Full details of time spent, hourly rates charged etc supported by work in progress print outs or such other records to record time spent

Relevant professional guidelines

Receipts/vouchers for payments made

Copies of all relevant Claim Notices and Counter-Notices any other relevant supporting papers

Such Bundle of documents shall be in chronological or other logical order and the papers shall be numbered consecutively. Two copies of the Bundle shall be supplied for use by the Tribunal.

The Respondents shall within 21 days of receipt of the Bundle referred to in Paragraph 1 above serve on the Applicants and the Tribunal Points of Dispute to identify the issues between the parties. Two copies of such Points of Dispute shall be supplied for use by the Tribunal


5. The 21 days expired for the Applicants to file their documents on 14th October 2009.
6. On 2nd December 2009 and in compliance with Regulation 11 (2) of the above regulations the Tribunal wrote giving notice to both parties that it was minded to dismiss the application, stating as follows;

"The Tribunal is therefore minded to dismiss the application pursuant to its power under regulation 11 of the Leasehold Valuation Tribunal (Procedures)(England)Regulations 2003. The grounds on which it is minded to dismiss are that neither party have complied with the Tribunals directions and this failure amounts to an abuse of the process of the Tribunal.

If you wish to appeal and be heard or send written representations on the question of dismissal you must notify me by 18th December 2009.

If no response is received by 30th December 2009 the application will be dismissed by the Tribunal."

7. On 6th December 2009 the Respondents wrote to the Tribunal offices saying that the Respondents considered there to have been an accounting error by the Applicants.
8. No further communications have been received by the Applicants save a costs schedule was received by fax on the 25th January 2010, the day of the hearing.
9. In view of the above, taking into account the failure by the Applicants to provide any supporting documentation in breach of the directions referred to, that the Respondents have not had the documentation referred to in the directions and thereby not had an opportunity to respond and that and that the Tribunal has thereby been given insufficient documentation to be able to properly consider the Application, the Tribunal has dismissed the Application and made no order in relation to the costs of the solicitor. These will therefore have to be borne by the Applicants themselves.



T A CLARK
Chairman

15.2.10