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Residential
Property
TRIBUNAL SERVICE

LEASEHOLD VALUATION TRIBUNAL
Ref:LON/00AM/LSC/2010/0524
LANDLORD AND TENANT ACT 1985, SECTIONS 20C
and 27A ('the Act')

Premises	174 Sandringham Road, London E8
Applicant	Ms Karen Lawrence (former leaseholder)
Representation	In person
Respondents	Mr R Kirpalani (freeholder and landlord under the lease)
Representation	Mr S Kirpalani (Directors of Tiko Limited, managing agents)
Date of Hearing	6 October 2010
Date of Inspection	None
Date of Decision	1 November 2010
The Tribunal	James Driscoll, solicitor (Lawyer Chair), and Ian Holdsworth BSc MSc FRICS

DECISIONS SUMMARISED

- 1. The respondent's application for a dispensation from the statutory consultation requirements in section 20 of the Act (and the regulations made under that section) is refused.**
- 2. Accordingly the applicant's service charge contribution for works to the common parts in 2007 is limited to a maximum of £250.**
- 3. The respondent is to reimburse the applicant in the sum of £240 which is to be paid to the applicant by 30 November 2010.**
- 4. There was no need to make an order under section 20C of the Act.**

INTRODUCTION

1. The applicant is the leaseholder of the basement flat in the premises. Her landlord and the owner of the freehold is Mr R Kirpalani. The property is managed by Tiko Limited who we were told manage the property through a series of annually renewable contracts. She has access to her flat through the main front door to the building. She accepts that in principle the landlord is responsible, amongst other matters, for the common parts which include the internal hall to the building which includes stairs to the three flats on the upper floors.
2. The applicant seeks a determination of her liability to pay a service charge of £507 in respect of the cost of the redecoration and the re-carpeting of the common parts of the premises in 2007. She argues that her contribution to the works should be capped at £250 as the respondents failed to consult her as required under section 20 of the Act and in the regulations made under that provision. She also complains about the quality of the work. When she made the application she also sought an order under section 20C of the Act limiting the landlord's costs being recovered as a future service charge. Under her lease she has to pay 15% of the landlord's costs in repairing, maintaining and insuring the building.

THE HEARINGS

3. A pre-trial review was held on 2 August 2010 when directions were given. Both the parties attended that hearing. It was explained to them that any continuing dispute over payments of ground rent under the applicant's lease is not within the jurisdiction of the tribunal.
4. In accordance with the directions each party prepared a bundle of documents. We heard the application on 6 October 2010 when the applicant appeared in person, the landlord appeared in person and accompanied by Mr S Kirpalani, a director of the management company. Each of the parties gave evidence and made a number of submissions on the consultation issue and on costs.
5. The landlord's position is that when he acquired the freehold to the building he decided to sell the other flats on long leases. He purchased the freehold to the property at auction on 17 July 2006. Using a local estate agent he tried to sell the flats but without success. He was later advised by those agents that works should be carried out to the flats to make them more marketable. He was also advised by the selling agent to carry out improvement works to the hallway and stairwell. They were subsequently re-plastered, repainted and fitted with replacement internal lighting..

6. He told us that he had spoken to the applicant about this informally and neither he nor the management company carried out a formal consultation process. Nevertheless he considers that he consulted with her fully so that she was made aware of the proposed works. He added that the provision or the restoration of the lighting was in the interests of the applicant as well as other occupiers or potential occupiers. The respondent told us that he had obtained two other quotations for the work.

7. The applicant told us that she sold her flat on 1 October 2010 but that the dispute over the service charge has not been resolved. She agreed that she had spoken to the applicant about the works. There had been no lighting in the internal hall for some time so she had at her own expense installed a light by the front door to her flat. She also states that she thought the works too expensive and she doubted if all the internal walls had to be re-plastered. She questioned also whether the supply of carpeting is an expense the landlord can charge for under the lease as it does not appear to be a repair.

OUR DECISION

8. Having considered these submissions we have concluded that the full consultation requirements should have been followed and that the respondents had sufficient time available to do this prior to undertaking works. If the statutory requirements had been followed , the applicant could have made formal representations about those matters she was concerned about. She would also have had the opportunity of nominating a contractor. In these circumstances we cannot exercise our discretion under section 20ZA as we do not consider that it is reasonable to dispense with the consultation requirements in section 20 of the Act.

COSTS

9. We also consider it reasonable that the respondents reimburse the applicant for the application and hearing fees which come to £240. As the parties failed to reach agreement she had no alternative but to apply to the tribunal for a determination. This order is made under regulation 9 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003. This sum should be paid within 14 days of the date of this decision. As the applicant has sold her flat we see no need to make an order on costs under section 20C of the Act. In any event, the landlord did not incur legal or other professional costs.

James Driscoll, Lawyer Chair

Dated: 1 November 2010.