

LON/00BA/LSC/2010/0443

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER SECTION 27A OF THE
LANDLORD AND TENANT 1985 (AS AMENDED)

Applicant: Mr Richa Gupta

Respondent: Mrs Anthonia Balogun

Re: Flat 2/2A Ashtree Avenue, Mitcham, Surrey CR4 3DR

Application received: 28 June 2010

Determination made without a hearing under Regulation 13 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003

Members of the Leasehold Valuation Tribunal:
Mr I Mohabir LLB (Hons)

IN THE LEASEHOLD VALUATION TRIBUNAL

LON/00BA/LSC/2010/0443

BETWEEN:

RICKA GUPTA

Applicant

-and-

ANTHONIA BALOGUN

Respondent

THE TRIBUNAL'S DECISION

Introduction

1. This is an application made by the Applicant under section 27A of the Landlord and Tenant Act 1985 (as amended) ("the Act") for a determination of the Respondent's liability to pay and/or the reasonableness of various estimated service charges claimed for the year ending 28 September 2010.
2. The Respondent is the lessee of the premises known as Flat 2/2A, Ashtree Avenue, Mitcham, Surrey, CR4 3DR ("the property") by virtue of a lease dated 27 March 1992 made between Laszlo Glausiusz and Louisa Halls for a term of 99 years from 29 September 1991 ("the lease").
3. The sums in issue are the following estimated service charges claimed by the Applicant on account in respect of anticipated expenditure for the period ending 28 September 2010:

	Total	Respondent's Contribution
(a) Management fee	£655	£218.33
(b) Buildings insurance	£1,403.54	£487.85

(c) Repairs and maintenance £400 £133.33

4. It is not necessary to set the lease terms that give rise to the Respondent's service charge liability because she does not contend either that she has no contractual liability for the sums in issue or that they are not recoverable as relevant service charge expenditure. The Respondent simply contends that the sums involved are not reasonable.

Decision

5. The Tribunal's determination took place on 13 September 2010 and is based entirely on the respective statements of case and documentary evidence filed by the parties. There was no oral hearing and the Tribunal did not inspect the property.
6. Firstly, the Tribunal was satisfied that the estimated sums demanded on account were contractually recoverable under clause 3(2)(i) of the lease. This provided the lessor with an a reasonable discretion to request estimated service charges for the period commencing on 29 September in each year to 28 September in the following year in fulfilment of its obligations under clause 4 of the lease.

Buildings Insurance

7. The Respondent submits that the buildings insurance premium for a one bedroom flat is excessive and unreasonable because the cost has increased by more than 700% in the last 4 years. She asserted that buildings and contents insurance in the Mitcham area costs less than £270 per annum. However, the Respondent failed to adduce any evidence of this. There was no evidence before the Tribunal that the insurance premium was unreasonable. Moreover, it is now settled law that a landlord is not obliged to accept the cheapest insurance quote as long as it is within a reasonable range of insurance premiums that could be obtained. There was also no evidence that the buildings insurance premium exceeded this range. Accordingly, the Tribunal found it to be reasonable.

Repairs and Maintenance

8. The Respondent makes no specific complaint about this head of expenditure. She simply wants to know what repairs are to be carried out. This is not a valid basis for challenging this cost because it misunderstands the position. This amount is claimed on account of anticipated expenditure by the landlord and it may not as yet be in a position to give the explanation required by the Respondent. The Respondent had the statutory protection afforded by section 19 of the Act of being able to challenge the actual expenditure at a later stage when it became known. The Tribunal did not consider the sum requested on account to be unreasonable and, accordingly, allowed it as claimed.

Management Fee

9. The Tribunal repeats its reasoning above regarding repairs and maintenance in relation to this item of cost. In particular, the Tribunal had regard to paragraphs 15 and 16 of the Applicant's statement of case, which sets out the services provided by the managing agent. In the circumstances, the Tribunal did not consider a fixed fee of £250 plus VAT per flat to be unreasonable. Furthermore, the Respondent's liability for this cost was not dependant on the size of the property. His contractual liability was fixed at one third of the cost. The Tribunal, therefore, found this cost was also reasonable.

Costs & Fees

10. There was no application made by the Respondent under section 20C of the Act in relation to costs of £350 plus VAT claimed by the Applicant. The Tribunal was, therefore, unable to make any order in relation to this matter. In the event that the Applicant seeks to recover these costs through the service charge account, the Applicant may challenge them by bringing a separate application under section 27A in the event she considers them to be excessive.
11. The Applicant also seeks reimbursement of the application fee of £70 to issue this application. Given that the application has wholly succeeded, the Tribunal orders the Respondent reimburse this sum to the Applicant.

Dated the 13 day of September 2010

CHAIRMAN..... I. Mohabir

Mr I Mohabir LLB (Hons)