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HM COURTS AND TRIBUNALS SERVICE

IN THE RESIDENTIAL PROPERTY TRIBUNAL

LEASEHOLD VALUATION TRIBUNAL

LANDLORD AND TENANT ACT 1985 – SECTION 27A

REF: LON/00AU/LSC/2011/0338

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Premises: 21 Catherall Road, London N5 2LE

Applicant: The London Borough of Islington

Represented by: Mr. R Frederick, Homes for Islington, Legal Services

Respondent: Mr. S Kamyab, leaseholder Flat 21

Represented by: In person

Tribunal: Ms. LM Tagliavini, Barrister & Attorney-at-Law (NY)  
Mr. P Roberts, DipArch, RIBA  
Mrs. L Walter, MA (Hons)

Date of Hearing: 24/10/11

1. This application was transferred to the Leasehold Valuation Tribunal by an order of District Judge Sterlini dated 11 May 2011, sitting at Clerkenwell and Shoreditch County Court, and seeks a determination on the liability and reasonableness of service charges demanded by the Applicant from the respondent in the sum of £14209.16.
  
2. By a lease dated 28 November 1988 the Applicant granted a 125 year lease of the subject premises to the Applicant's successors in title with effect from 25 March 1983. The premises comprise a two bedroom flat on the second floor of a 1970's block of flats known as Gambier House forming part of the Highbury Quadrant Estate. In a defence filed in the County court proceedings, the Respondent asserted that he did not know what percentage of the works were concluded and he was being forced to pay for works that were not related to his premises. The Respondent also stated that there should be a proper invoice for every single job that has been carried out by the landlord. Despite directions made by the Tribunal on 9<sup>th</sup> June 2011 and varied on 4<sup>th</sup> August the Respondent provided no further information or detail as to why he disputed the service charges claimed.

Inspection:

3. The Tribunal inspected the block and part of the Estate before the start of the hearing in the morning. Representatives from the parties did not attend. The Tribunal found the premises to be on the second floor of a well maintained block and estate in a pleasant and

well-placed part of the borough. The Tribunal was only able to inspect externally and was not provided with access to the roof. However, it was apparent to the Tribunal that works to this block and estate had in the fairly recent past been carried out and completed.

#### The Applicant's Case:

4. The Tribunal was provided with a bundle of documents and a Statement of Case, which set out the background to this dispute. The works themselves concerned renewals, general repairs, painting and decorating, mechanical and electrical services and concerned the estate known as the Quadrant Estate of which this building forms part. The works were to be carried out under a Qualifying Long Term Agreement and the overall contract sum was £4,441,151 (agreed maximum price). The respondent was served with a S20 Notice on 20<sup>th</sup> October 2008. The works relating to this block only were estimated to cost no more than £ £284,086.10 of which £45,659.10 was allocated to site set-up and accommodation costs; £41,392.75 to scaffolding and £25,181.85 for contingencies. Professional fees of 11% were also added to the schedule of costs to give a total of £315,335.57. The Tribunal was provided with copies of Certificates of Payment for these works carried out in 2009.
5. The Tribunal heard evidence as to how these works were carried out and apportioned to the block and the individual lessees. Works to the balconies to the flats were carried out as these were not demised to the individual leaseholders but remained the responsibility of the landlord to maintain and repair.
6. The Tribunal were provided with information as to how costs were apportioned to the individual lessees having regard to the number

of bedrooms within the respective flats. 2 to 3 bedroom flats, such as the subject flat, bearing a unit charge of 1/20<sup>th</sup> and with larger properties paying a greater contribution towards the costs and smaller properties paying a lesser contribution. The amount payable by the subject was calculated by the AMP (agreed maximum price) for the block divided by 20 (the number of flats in the block) which produced the contribution required from the Respondent.

#### The Respondent' Case:

7. Mr. Kamyab stated that he felt that the works carried out were too expensive but was unable to provide any alternative quotes to substantiate this assertion. He stated that a sum of £3500 was a more reasonable figure and denied that the windows in his flat had been replaced in this programme of major works. However, the Respondent provided no documentary evidence to substantiate this. The Respondent appeared to be under the mistaken belief that the kitchen and bathroom to his property should have been replaced and he was being charged for them. However, it was made clear that these works applied only to the Applicant's tenant and not long leaseholders and therefore he was not being charged for these items.
  
8. The Respondent did not seek to challenge the consultation process or the standard of works or his liability to contribute to works affecting solely his own premises together with the expenses and outgoings incurred appertaining to the building in which the premises are situated and the Estate; *clause 5 of the lease*. He stated that he accepted he had a liability to pay service charges but as an architect himself, he believed the costs incurred were too high and unreasonable.

The Tribunal's Findings:

9. It was not disputed by the Respondent that the works were necessary (other than in respect of his windows) and carried out to a reasonable standard, or that the correct consultation process was carried out. In the absence of any substantive challenge to the costs and the manner of their apportionment the Tribunal finds that it was reasonable to carry out these works and they are reasonable in cost with the following exceptions. The Tribunal finds the sums charged for preliminaries and scaffolding, which total 50% of the costs of specified works attributable to this block (excluding contingencies), to be unreasonably high and determines that a sum in the region of 25% is a more reasonable and appropriate figure. The contingency sum allowance is also unreasonably high, at nearly 15% of specified works, and the Tribunal determines 10% to be a reasonable figure to be allowed.

Therefore these sums should be reduced as follows:

With reference to the schedule of costs

Specified works	Renewals	£123,740.35
	General repairs	8,054.27
	Painting/decorating	26,557.78
	Services	<u>13,500.00</u>
		£171,852.40
Plus	Preliminaries, access @ 25%	42,963.10
	Contingency @ 10%	<u>17,185.24</u>
		£232,000.74
	Professional fees @ 11%	<u>25,520.08</u>
		<b>£257,520.82</b>
	<u>Tenants contribution @ 1/20<sup>th</sup> of £257,520.82</u>	<u>= £12,876.04</u>

13. Therefore, the Tribunal finds that the interim costs of the works should be adjusted by the above sums and the management fee at 11% should also be adjusted accordingly. However, the Tribunal makes it clear that the sums charged by the Applicant are subject to a final account being produced at which time there may be further adjustments made. However, for the purposes of this application the Tribunal determines that the Respondent is liable to pay the sum of £12,876.04 as his (interim) contribution towards these major works.
  
14. As the Applicant indicated that it did not propose to add the costs of this LVT litigation to the service charges, an application pursuant to section 20C of the Landlord and Tenant Act 1985 was not necessary. The Tribunal now remits this matter back to the Clerkenwell and Shoreditch County Court for any further orders that may be required.

Chairman: LM Tagliavini

Dated: 18/11/11