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**HM COURTS & TRIBUNALS SERVICE**

**LEASEHOLD VALUATION TRIBUNAL**

In the matter of an Application under Section 27A of the Landlord & Tenant Act 1985  
(Service Charges) and Section 20C (Recovery of Costs)

**Case No.** CHI/29UE/LIS/2011/0089

**Property:** Flat A  
8 Salisbury Road  
Dover  
Kent  
CT16 1EU

**Between:** Ms S. Fox (“the Applicant”)  
  
and  
  
Mr. D.R. Green (“the Respondent”)

**Date of Determination:** 10<sup>th</sup> February 2012

**Members of the Tribunal:** Mr. R. Norman

**Date Decision Issued:** 15<sup>th</sup> February 2012

**FLAT A, 8 SALISBURY ROAD, DOVER, KENT CT16 1EU**

**Decision**

1. Within 28 days of the date of issue of this decision, Mr. D.R. Green (“the Respondent”) is to:

(a) Refund to Ms S. Fox (“the Applicant”) the following service charges in respect of Flat A, 8 Salisbury Road, Dover, Kent CT16 1EU (“the subject property”):

- (i) £106.31 for the year 25<sup>th</sup> March 2010 to 24<sup>th</sup> March 2011.
- (ii) £108.00 for the year 25<sup>th</sup> March 2011 to 24<sup>th</sup> March 2012.

(b) Remove the debit of £142.00 shown in the accounts as “22 Dec 2010 Re: Communal Window Replacement 142.00”

2. An order is made under Section 20C of the Landlord and Tenant Act 1985 (“the Act”) that all or any of the costs incurred or to be incurred by the Respondent in connection with these proceedings are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Applicant.

### **Background**

3. The Applicant has made an application under Section 27A of the Act for a determination of liability to pay and reasonableness of service charges and for a limitation of costs order under Section 20C of the Act.

4. On 23<sup>rd</sup> November 2011 directions were issued and with those directions the Tribunal gave notice to the parties under Regulation 13 of the Leasehold Valuation Tribunals (Procedure)(England) Regulations 2003, as amended by Regulation 5 of the Leasehold Valuation Tribunals (Procedure) (Amendment) (England) Regulations 2004, that the Tribunal intended to proceed to determine the matter on the basis only of written representations and without an oral hearing. Also that if the matter were dealt with in that fashion it might be considered by a Chairman sitting alone, or alternatively with another Member of the Panel, rather than by a full tribunal of three members. The parties were given the opportunity to object to that procedure by writing to the Tribunal no later than 28 days from 23<sup>rd</sup> November 2011. No written objection has been received and the matter is being dealt with on the basis only of written representations and without an oral hearing.

5. The directions required the Applicant no later than 22<sup>nd</sup> December 2011 to send to the Tribunal and to the Respondent a statement of case and copies of documents upon which she sought to rely. In response to the directions, a statement of case and copy documents were received from the Applicant.

6. The directions also required that if the Respondent wished to contest the applications he should within 28 days of receipt of the Applicant’s statement of case and copy documents send to the Applicant and to the Tribunal a statement in writing saying why he contested the applications and the reasons for doing so. He was also to accompany that statement with copy documents in support of his case. Nothing at all has been received from the Respondent or from anybody on his behalf.

### **Evidence and reasons for decision**

7. In the absence of any communication from the Respondent, all that was before me was the application itself and the evidence supplied by the Applicant. I have considered the statement of case and copy documents received from the Applicant.

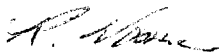
8. The evidence produced by the Applicant casts doubt on the accuracy of the sums demanded in respect of service charges for the years 25<sup>th</sup> March 2010 to 24<sup>th</sup> March 2011 and 25<sup>th</sup> March 2011 to 24<sup>th</sup> March 2012. The Applicant claims the refund of charges of £106.31 and £108.00 respectively for those two years. In the absence of an explanation

from the Respondent or his managing agent, I find that those service charges should be refunded to the Applicant.

9. The demand for £142 was made by a letter dated 22<sup>nd</sup> December 2010. Works were to be carried out at 8 Salisbury Road which required compliance with the consultation process under Section 20 of the Act. Some funds were said to be available within the service charge account but there was said to be a shortfall of £475 and the demand was made on the basis that £142 was the proportion of that shortfall due from the Applicant.

10. The Applicant's case is that the consultation procedure was not properly carried out and that the estimate for scaffolding which formed part of the works was higher than the estimate for scaffolding which she had obtained. In the absence of an explanation from the Respondent or his managing agent, I accept the evidence from the Applicant and am not satisfied that the charge should have been made. Consequently, I find that the debit of £142.00 shown in the accounts as "22 Dec 2010 Re: Communal Window Replacement 142.00" should be removed.

11. There is before me an application for an order under Section 20C of the Act. I find that it is just and equitable in the circumstances to make such an order because the Applicant was justified in bringing these proceedings to clarify the position and neither the Respondent nor anyone on his behalf has complied with the directions given or provided any evidence.



R. Norman  
Chairman