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HM COURTS & TRIBUNALS SERVICE
LEASEHOLD VALUATION TRIBUNAL (LVT)
of the LONDON RENT ASSESSMENT PANEL

Property	27, Crown Mill, London Road Mitcham, Surrey CR4 4FY
Claimant	Crown and Grove Mills Management Limited
Defendant	Ebruce Brigue
Case Number	LON/00BA/LSC/2012/0330 (IRH 01191 – Reigate County Court)
Date of Hearing	17 th October 2012 - LVT
Type of Case	Determination of the amount payable in respect of service charges and administration charges (Transferred to LVT by County Court)
Tribunal	A.J.ENGEL M.A.(Hons.) - Chairman R. POTTER F.R.I.C.S. A.RING
Date of Decision	7 th November 2012

DECISION

£3,722-13 is the amount payable by the Defendant to the Claimant for service charges and administration charges prior to 4th August 2011.

REASONS

Introduction

1. The Property is a flat in a block of 45 flats. The Defendant is the (long) Lessee.
2. The Claimant is the Management Company and it is a party to the Lease.
3. Service charges and administration charges are payable by the Defendant to the Claimant.
4. Centro plc (Centro) has, at all material times, acted as agent of the Claimant.

The Claim

5. On 25th August 2011, the Claimant's Solicitors (instructed by Centro) instituted proceedings in the Reigate County Court for arrears of service charges and administration charges in the sum of £5,390-10.
6. The amount claimed (£5,390-10) is the total amount outstanding on 3rd August 2011 according to the Property's Service Charge account – which was lodged with the Court as part of the Claim.
7. On 23rd January 2012, the matter was transferred by Reigate County Court to the LVT.

Our Remit

8. The LVT has the task of determining the amount payable by way of service charges and administration charges – in so far as items have not already been ruled upon by a Court.

9. Service charges and administration charges (which have not already been ruled upon by a Court) are only payable if and to the extent that the LVT determines that they are reasonable.
10. It is not necessary in this case for us to decide whether a particular item is a service charge or an administration charge – or both.
11. In the absence of an application (pursuant to Section 27A of the Act) made to the LVT, we are limited to deciding on the matter transferred to the LVT by the Court.
12. Accordingly, in this case, we cannot consider items debited to the Property's service charge account after 3rd August 2011.
13. It must be emphasised that an LVT's jurisdiction is limited to service charges and administration charges. We have no jurisdiction to determine Court interest or Court costs.

Hearing

14. A hearing took place before the Tribunal on 17th October 2012, when the Claimant was represented by Miss Flowers of counsel and the Defendant was represented by Mr Ighalo. Both Miss Flowers and Mr Ighalo made oral representations to the Tribunal.

Evidence

15. On 13th June 2012, a Vice-President of the Panel gave detailed Directions. Unfortunately, compliance with these Directions was highly unsatisfactory.
16. The evidence before the Tribunal consisted of over 400 documents - provided to the Tribunal, on the day before the hearing, in a bundle which was in no particular order and incorrectly paginated. The bundle included the Lease.

17. The bundle was supplemented by documents produced by the Claimant during the course of the hearing.
18. Further, the Claimant produced yet further documents on the day after the hearing – some of which conflicted with documents produced by the Claimant during the course of the hearing.
19. The Tribunal has done its best to arrive at a just result in these (difficult) circumstances.

The Lease

20. The Lease contains (in Schedule 7) a covenant on the part of the Claimant “to comply with the requirements of Sections 18 -30 of the Landlord and Tenant Act 1985 and to pay the legal and other costs of seeking a declaration that the Interim Maintenance Charge or the Maintenance Charge are reasonable.”
21. The Lease also contains (in Schedule 4) a covenant on the part of the Defendant to pay maintenance charges which are reasonably and properly incurred by the Claimant “in complying with the covenants on its part contained in Schedule 7”.
22. Hence, we are satisfied that the items debited in the Property’s Service Charge Account are items in respect of which payment by the Defendant to the Claimant is due under the terms of the lease.
23. The amount payable in respect of the debits depends, of course, on our determinations in respect of items within our jurisdiction

Previous Tribunal and Court Orders

24. On 14th October 2010, a differently constituted LVT had ruled on service charges in the Property’s Service Charge account up to (and including) 19th November 2009.

25. This ruling by the LVT was made pursuant to a transfer of proceedings to the LVT by the Bromley County Court.
26. The decision of that LVT was that £2,071-42 was the amount payable for service charges (and administration charges) up to (and including) 19th November 2009.
27. Although we have not been provided with a copy of the Court Order, we assume that the decision of the LVT was later incorporated in an Order of the Court.
28. We have, however, been provided with a copy of an Order made by Bromley County Court on 21st June 2011 when the Court awarded the Claimant the sum of £661-46 against the Defendant being £161-46 interest and £500 costs (which includes, it appears, counsel's fees of £300 for appearing at the hearing on 21st June 2011).

Payment

29. On 27th July 2011, the Property's Service Charge Account was credited with the sum of £2,732-88 being the £2,071-42 allowed by the Previous Tribunal plus the £661-46 allowed by the Court.
30. This payment was made by the Defendant's Mortgagee.

The Service Charge Account – 10/12/2009 to 3/08/2011

31. Debits on the Service Charge Account for the Property for this period are set out below – together with our determinations in respect of each item:-

Dates

10/12/09 – Office Copies (Disallowed. Not justified.)	(£4-60)
1/1/10 - Advance Maintenance Charge (Agreed)	£479-50

25/1/10 - Court Fees (£85)
(Part of £661-46. In any event, LVT has no jurisdiction)

25/1/10 - Solicitor Costs (£80)
(Part of £661-46.

This appears to be part of Solicitor's Invoice No. 12758
– dated 3/2/10 - which was produced by the Claimant
during the LVT hearing – for £235 for “our professional
advice in connection with issuing Claim Form at the Court”.
Further, we consider that the sum of £235 is excessive
as the advice required was minimal and we, therefore,
disallow the balance of £155 debited on 4/2/10 – see below.

I stated at the hearing that I had considerable experience
of legal fees and that, in my opinion (with which the other
Tribunal members agreed), £80 – including VAT was the
maximum reasonable fee. Thus, the parties had the opportunity
of making representations on this matter.)

2/2/10 – Legal Letter Costs £50
(No invoice produced. This is a letter before action.
We consider that the £82-25 debited is excessive and
that £50 – including VAT is the maximum reasonable cost.

I stated at the hearing that I had considerable experience
of legal fees and that, in my opinion (with which the other
Tribunal members agreed), £50 – including VAT was the
maximum reasonable fee. Thus, the parties had the
opportunity of making representations on this matter.)

2/2/10 – Arrears processing Fee £50
(Debited £132 for Centro referring arrears to Solicitors.
Excessive. £50 inclusive of VAT allowed.)

[During the hearing, I stated that the Tribunal members all had
extensive experience of the costs of such matters and that, in
our view, £50 was the reasonable fee. Thus, the parties had the
opportunity to make representations thereon – although none were
made.]

3/2/10 – Water usage £66-80
(Agreed)

3/2/10 – External Decoration Fee (4/7/10 Credited in full)	
4/2/10 – Balance of Solicitor Costs inv 12758 (See 25/1/10 above.)	(£155)
29/4/10 – Water Usage (Agreed)	£ 51-49
1/7/10 – Advance Maintenance Charge (Agreed)	£479-50
28/7/10 – Barrister Costs (This was for a telephone Pre-Trial Review for the Previous Tribunal. Reasonable. Allowed.)	£150-00
30/7/10 – Water Usage (Agreed)	£47-33
27/10/10 – Water Usage (Agreed)	£14-31
1/1/11 – Advance Maintenance Charge (Agreed)	£499-50
7/2/11 – Water Usage (Agreed)	£13-00
4/5/11 – Water Usage (Agreed)	£15-25
1/7/11 – Advance Maintenance Charge (Agreed)	£499-50
3/8/11 – Interest on Debt (Part of £661-46)	(£161-46)
3/8/11 – LVT Costs (Part of £661-46)	(£35)
3/8/11 – Barrister Costs (Part of £661-46)	(£300)

3/8/11 – Barrister Costs 09-09-10 £400
(This is in respect of the hearing by the
Previous Tribunal. Reasonable. Allowed.)

3/8/11 – Balance of Solicitor Costs inv 14293 £1,200
(The debit is in the sum of £2,386-80. We were provided with a copy
of Invoice 14293 which is dated 26th July 2011. All it states is:- “To our
professional fees in connection with unpaid service charges.”

During the course of the hearing, on 17th October 2012, a document dated
17th October 2012 was produced on behalf of the Claimant, signed by the
Claimant’s Solicitors which showed 10.2 hours worked @ £195 per hour
= £1,989 + VAT (£397-80) = £2,386-80. The hours were assigned to
various headings but there was no detail of what had (allegedly) been
done.

I stated at the hearing that I had considerable experience of legal fees and
that, in my opinion (with which the other Tribunal members agreed),
£1,000 + VAT (£200) = £1,200 was the reasonable fee. Thus, the parties
had the opportunity of making representations on this matter. The only
representation made was by Miss Flowers who relied to the document
dated 17th October 2012.

On the day after the hearing, the Claimant’s Solicitors sent to the
Tribunal a document which set out different amounts. This document
(which was, of course, copied to the Defendant by the Tribunal) strongly
indicates that the £2,386-80 in invoice 14293 was excessive and supports
our determination of £1,200 as the reasonable cost of this item.)

32. Thus, the total of the debits which we allow is £4,016-18.

33. From this amount, credits totalling £294-05 fall to be deducted. These
credits are listed on the Service Charge Account and are in respect of
items debited prior to 19th November 2009.

34. Accordingly, the amount payable for service charges and
administration charges for the period prior to 4th August 2011 is
£3,722-13.

Section 20C

35. By letter dated 14th September 2012, the Defendant applied to the LVT for an Order (under Section 20C of the Landlord and Tenant Act 1985) that the costs of these proceedings should not be taken into account in determining the amount of future service charges.
36. In our view, it would neither be just nor equitable for an Order under Section 20C to be made bearing in mind that the Claimant has been obliged to bring proceedings in order to recover substantial arrears of service charges and the fact that no payment of service charges was made by the Defendant (as opposed to her mortgagee) during the period we have dealt with (10th December 2009 to 3rd August 2011).

SIGNED:

(A.J.ENGEL – Chairman)