

LONDON RENT ASSESSMENT PANEL

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION UNDER SCHEDULE 11 OF THE COMMONHOLD AND LEASEHOLD REFORM ACT 2002

Case Reference: LON/00BC/LAC/2012/0009

Premises: 48 Victory Road, Wanstead, London E11 1UL

Applicant (Tenant): Ms Natasha Sevant

Respondent (Landlord): Regisport Ltd.

Landlord's Representative: Pier Management Ltd.

Date of Application 8 May 2012

Leasehold Valuation Tribunal: Ms F Dickie, Chairman
Mr J R Humphrys FRICS

Date of decision: 17 July 2012

Decisions of the Tribunal

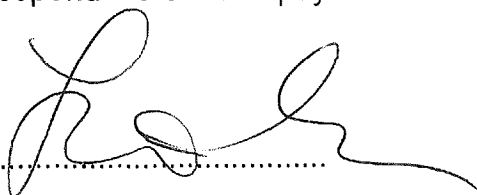
The tribunal has no jurisdiction to determine the application in respect of an administration charge as it has been agreed that none is payable. The Respondent shall pay to the Applicant £200 in respect of costs and fees within 28 days.

The Application and Tribunal's Reasons

1. The application is for a determination under Schedule 11 of the Commonhold and Leasehold Reform Act 2002 ("The Act") whether an administration charge is payable for the provision of a licence by the landlord for the replacement of windows in the demised premises. By consent the application has been determined on the papers.
2. By virtue of paragraph 5(4)(a) of the Act no application may be made in respect of a matter which has been agreed or admitted by the tenant.

3. In an email dated 11 July 2012 from James Buck of Pier Management the Respondent has agreed that the Applicant requires no licence for consent under the terms of her lease. Accordingly, the tribunal has no jurisdiction to determine the application under Schedule 11. As agreed, no administration charge is payable.
4. Under Regulation 9 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003 the tribunal has the power to refund the fees paid. In all the circumstances the tribunal orders the Respondent to reimburse the Applicant's application fee of £100 within 28 days.
5. Under Paragraph 10 of Schedule 12 of the Act the tribunal may determine that a party to proceedings shall pay the costs incurred by another party in connection with the proceedings where he has acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings. The Applicant applies for her solicitor's costs of £80 plus VAT plus an unspecified amount for her administration expenses, time, material and inconvenience.
6. Having read the lease and the detailed correspondence between the Applicant's solicitors and the Respondent's agent, the tribunal forms the view that the Respondent had no arguable case to demand an administration charge for the issue of a licence, since no licence was required in the circumstances. It is not necessary to set out the terms of the lease in this decision.
7. Furthermore, the application was initially opposed and not unequivocally agreed until shortly before the date for the tribunal's determination. The Applicant attended the pre trial review on 12 June 2012. The Respondent did not, and furthermore failed to comply with the tribunal's directions issued that day, which required the Respondent to serve a statement of case by 26 June.
8. The tribunal in the circumstances is of the view that the Respondent has acted unreasonably in connection with the proceedings and considers an order for costs is appropriate. Its power to award costs is limited to those "incurred by another party in connection with the proceedings". The tribunal finds that the Applicant's solicitor's costs, incurred prior to the issue of the application and not expressly in contemplation thereof, were not incurred in connection with the proceedings, and that it therefore has no power to make an order in respect of them. Whilst the Applicant does not specify the further costs she seeks, she clearly incurred costs in connection with the attendance at the pre trial review, and in dealing with length correspondence, complying with the tribunal's directions and preparing four copies of the bundle for the tribunal. Doing the best it can the tribunal determines the Applicant's costs in connection with the proceedings to be £100 and orders the Respondent to make payment of this sum to her within 28 days.

Signed



Ms F Dickie, Chairman, 17 July 2012