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LONDON RENT ASSESSMENT PANEL



**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION FOR COSTS**

Case Reference: LON/00BE/LAM/2012/0002

Premises: 38 Eagle Wharf Court, Lafone Street,
London SE1 2LZ

Applicant: Mr C Peka

Respondent: Tower Bridge Piazza Ltd

Representative: Ashley Associates, agents

Leasehold Valuation Tribunal: Mr NK Nicol
Mrs A Flynn MA MRICS
Mr J Francis

Date of decision: 23rd August 2012

1. The Applicant has withdrawn his application for the appointment of a manager under section 24 of the Landlord and Tenant Act 1987. The Respondent has now applied, by letter dated 15th August 2012 from Ashley Associates, for an order for costs against the Applicant under paragraph 10 of Schedule 12 to the Commonhold and Leasehold Reform Act 2002:-

- (1) A leasehold valuation tribunal may determine that a party to proceedings shall pay the costs incurred by another party in connection with the proceedings in any circumstances falling within sub-paragraph (2).

- (2) The circumstances are where--

- (a) ..., or

(b) he has, in the opinion of the leasehold valuation tribunal, acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.

(3) The amount which a party to proceedings may be ordered to pay in the proceedings by a determination under this paragraph shall not exceed--

(a) £500, ...

2. The Respondent complains that "it was entirely unnecessary and inappropriate for the applicant to refer the matter to the" Tribunal and that he failed to attend a pre-trial review.
3. The Applicant responded by letter dated 18th August 2012 opposing the application for costs and objecting to calling his actions frivolous, etc. He pointed out that he had been unable to attend the pre-trial review. As the Tribunal understands it, his prime motivation for bringing his substantive application was because of difficulties in selling his flat (see the Background section in the Tribunal's directions order of 25th April 2012) but he has now been able to move towards that after the Respondent offered a number of concessions.
4. The Tribunal is not satisfied that the Applicant's behaviour can be categorised as frivolous, vexatious, abusive, disruptive or otherwise unreasonable. This is a high test and is not to be applied to someone simply because they pursue a case which may appear to be relatively weak or because they have a change of mind. The Tribunal cannot penalise every applicant who is persuaded to withdraw their case or it would provide a perverse disincentive to continue with that case. It is also disingenuous of the Respondent to criticise the Applicant's pre-trial behaviour when they themselves specifically decided not to comply with the Tribunal's directions (see paragraph 8 of the aforementioned previous directions order).
5. Therefore, the application for costs is dismissed.

Name:

N.K. Nicol

Date:

23rd August 2012