

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**



**Residential
Property
TRIBUNAL SERVICE**

S.27A Landlord & Tenant Act 1985 (as amended) (“the Act”)

DECISION of the Leasehold Valuation Tribunal & ORDER

Case Number:	CHI/OOML/LSC/2007/0127
Date of Application:	26 th June 2006
Property:	Ground Floor Flat 5 Carlisle Road Hove East Sussex BN3 4FP
Applicant/Lessee	Devechand Joysury
Respondent/Lessor	Hugo Robertson
Date of Hearing:	23 rd March 2007
Venue:	Maritime House Basin Road North Hove East Sussex
Appearances:	
For the Respondent:	Mr Andrew Holt Solicitor of Messrs Woolley Bevis & Diplock
Tribunal Members:	Mr R T A Wilson LLB (Lawyer Chairman) Mr R A Wilkey FRICS FICPD (Valuer Member) Mr T W Sennett MA MCIEH (Lay Member)
Date of Decision:	10 th April 2007

The Application

1. This is an Application made by Mr Joysury the leaseholder under Section 27A of the Landlord and Tenant Act 1985 as amended ("The Act") for a determination of his liability to pay service charges in relation to 5 Carlisle Road, Hove.

Decision

2. Neither the application nor the Applicants statement of case has disclosed any disputed items of service charge open to determination by the Tribunal.
3. The case is therefore transferred back to the County Court so that the remaining issues in dispute (if any) can be clarified and made the subject of further directions as appropriate.

Preliminaries

4. This case was commenced by the Applicant in the Brighton County Court and consisted of a claim against the Respondent for the return of £1,350 allegedly held by the Respondent against the wishes of the Applicant. On the 30th August 2005 Brighton County Court stayed the proceedings pending determination by the Leasehold Valuation Tribunal, as the matter appeared to relate to undetermined service charges which were in the jurisdiction of the Leasehold Valuation Tribunal.
5. In June 2006, the Applicant applied to the Leasehold Valuation Tribunal under Section 27A of the Act. The Tribunal issued directions requiring the Applicant to file a written statement of case together with supporting documentation and for the Respondent to reply setting a target date for an oral hearing of the 23rd March 2007.
6. Although the Applicant has filed what purports to be a statement of case he does not identify with sufficient precision the nature of the dispute. Moreover the relevant sections in his application form which would identify the dispute have been left blank. It has therefore not been possible to identify any sums demanded by way of service charge which the Tribunal are asked to deliberate on. It is also unfortunate that the Applicant did not attend the hearing in order to clarify any of the above issues.

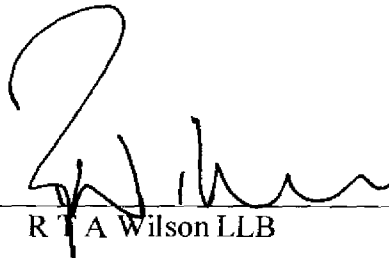
Evidence & Considerations.

7. In the absence of a properly pleaded statement of case or an appearance from the Applicant, the Tribunal was only able to hear from Andrew Holt solicitor on behalf of the Respondent. Mr Holt contended that it was not possible to identify what items of service charge the Applicant was challenging.
8. From his knowledge of the previous two County Court proceedings between the same parties, Mr Holt suggested that the issues disputed by the Applicant had either already

been determined by the County Court or related to contractual arrangements agreed between the parties over which the Tribunal had no jurisdiction. Mr Holt referred to the Respondent's bundle of documents which included a County Court judgement in favour of the Respondent against the Applicant for £2337.56. This figure had therefore been judicially determined and the Tribunal had no jurisdiction to overturn the judgement.

9. A second figure of £1,350 appeared in the Applicant's papers possibly relating to a request to return monies paid by the Applicant to a "repairs kitty". Mr Holt submitted that these monies did not constitute service charge as they were paid as a result of a contractual arrangement over which the Tribunal had no jurisdiction. There were no reserve fund provisions in the lease.
10. The Tribunal accepted these submissions. The statement of case did not identify with any clarity what items of service charge if any were challenged. Furthermore the application form was incomplete and also lacked clarity.
11. The Applicant appears to want a surveyor to check the building to see what repairs have been carried out. The Tribunal has no jurisdiction to order such an inspection and neither is it able to comment on the state of repair of the building as requested by the Applicant.
12. Having regard to the above the Tribunal refers the case back to the County Court for determination.

Chairman



R T A Wilson LLB

Dated: 10th April 2007