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LONDON RENT ASSESSMENT PANEL

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION
UNDER SECTIONS 27A & 20C OF THE LANDLORD AND TENANT ACT 1985**

Case Reference: LON/00AH/LSC/2012/0280

Premises: Ground Floor Flat
50 Parchmore Road
Thornton Heath
Surrey
CR7 8LW

Applicant Theresa Vonu

Representative:

Respondent Lakeside Developments Limited

Representative: Trust Management Limited
(Managing Agent)

Date of hearing: 30th July 2012

Appearance for Applicant Theresa Vonu

Appearance for Respondent Ms Griffiths (an employee of Trust Management Limited)

Leasehold Valuation Tribunal: A. J ENGEL M.A (Hons) - Chairman
P. TOBIN F.R.I.C.S.
R.TURNER J.P.

Date of decision: 18TH August 2012

**HM COURTS & TRIBUNALS SERVICE
LEASEHOLD VALUATION TRIBUNAL
of the LONDON RENT ASSESSMENT PANEL**

Premises	Ground Floor Flat, 50, Parchmore Road, Thornton Heath, Surrey CR7 8LW
Applicant	Theresa Vonu
Respondent	Lakeside Developments Limited
Respondent's Representative	Trust Management Limited (Managing Agent)
Case Number	LON/00AH/LSC/2012/0280
Date of Applications	24th April 2012
Date of Hearing	30th July 2012
Type of Applications	Applications: (i) pursuant to Section 27A of the Landlord and Tenant Act 1985 (the Act), for determinations of the amounts payable by way of service charges; (ii) pursuant to Section 20C of the Act for an Order limiting service charges; (iii) pursuant to Regulation 9(1) of the Leasehold Valuation Tribunals (Fees) (England) Regulations 2003 for re- imbursement of fees.
Tribunal	A.J.ENGEL M.A.(Hons.) - Chairman P.TOBIN F.R.I.C.S. R.TURNER J.P.
Date of decisions	18th August 2012

DECISIONS

- A. Nothing is payable by the Applicant to the Respondent in respect of the proposed major works.**

- B. The Applicant has overpaid the Respondent £1,401-39 service charges – up to 28th February 2012. This sum is repayable to the Applicant by the Respondent forthwith.**

- C. All 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.**

- D. The Respondent is ordered to reimburse the Applicant forthwith for the whole of the fees paid by the Applicant in respect of these proceedings.**

REASONS

Introduction

1. 50, Parchmore Road is divided into 2 flats.

2. The Freeholder is the Respondent. The Respondent employs Trust Management Limited as its Managing Agent in respect of 50, Parchmore Road.

3. The Applicant is the (long) Lessee of the Ground Floor Flat. The (long) Lessee of the First Floor Flat is Ms Gilkes.

4. In January 2011, a (differently constituted) Leasehold Valuation Tribunal (the 2011 LVT) made a determination (under Section 27A of the Act) in a dispute over service charges between Ms Gilkes and the Respondent. We were provided with that decision (and reasons).

The Issues

5. In this case, the dispute concerns proposed major works and service charges from 30th November 2005 (which was around the time that Trust Management Limited took over as Managing Agent) up to 28th February 2012.

Hearing

6. A hearing before the Tribunal took place on 30th July 2012 when the Applicant appeared and gave oral evidence. The Respondent was represented by Ms Griffiths (an employee of Trust Management Limited).

Evidence

7. In addition to the Applicant's oral evidence (which we accepted), the Tribunal was provided with a Bundle of documents, which (unfortunately) did not contain all relevant documents and a Schedule which (unfortunately) was not in date order and which contained duplications and inaccuracies. This Schedule did not assist us.
8. We have had to do our best on the documents which have been provided to us together with the oral evidence of the Applicant and the assistance of Ms Griffiths (for which we are grateful). We should add that the deficiencies in the evidence provided to the Tribunal was not due to any fault on the part of Ms Griffiths.
9. References to page numbers (below) are to pages in the Bundle.

The Lease

10. The Lease provides for service charges to be paid in arrear (i.e. after the expenditure has been incurred). There is no provision for payments in advance.

Major Works

11. In 2010, the Respondent proposed to carry out major works to 50, Parchmore Road. Estimates were obtained and Surveyors instructed

by the Respondent recommended that the contract be awarded to Cannon Construction Croydon Limited for a price of £23,000 (approximately).

12. The Respondent seeks to obtain this sum from the Applicant and Ms Gilkes prior to commencement of the works.
13. As Ms Griffiths explained to the Tribunal at the hearing, the Respondent is (understandably) not willing to allow works to commence before payment (in advance) is obtained from the Applicant and Ms Gilkes.
14. Both the Applicant and Ms Gilkes have made it clear that they are not willing to pay for the proposed major works.
15. As explained above (No. 10), the Lease does not oblige the Applicant to pay in advance and thus no service charge is now payable by the Applicant in respect of the proposed major works.
16. It is clear that the proposed major works will not be carried out in the foreseeable future.
17. In these circumstances, we do not need to decide:-
 - (i) whether any of the proposed works are “improvements” and thus outside the provisions of the lease with regard to the Tenant’s reimbursement obligation;
 - (ii) whether the cost is reasonable;
 - (iii) whether there was compliance with the consultation requirements.

Service Charges

18. The evidence established that the Applicant had paid the Respondent’s service charge demands to date. However, she disputed the reasonableness of certain items.

Electricity

19. The service charge demands include sums paid for electricity (to the common parts). However, the electricity to the common parts was not working until a repair was carried out in January 2011 (Page 213). It appears that the electricity bills prior thereto were for standing charges.
20. In our view, the requisite repair should have been carried out (by the Respondent) within a short time of the fault occurring and it is not reasonable for the Applicant to have to pay standing charges incurred whilst the fault was not rectified.

Management Fees

21. The 2011 Tribunal decided that £100 per unit (plus VAT) was reasonable for management charges. We are not bound by that decision but we agree with the observations made in Paragraph 16 of the Reasons of the 2011 Tribunal and we, too, determine that the reasonable charge for management should be £100 (plus VAT) per annum for the Ground Floor Flat.

Amounts of Service Charges Overpaid

22. Service charge demands were served quarterly. Thus management fees allowed are £25 + VAT per quarter
23. Page 91 – It appears that the Applicant paid £50 plus £8-75 VAT = £58-75 which is double the sum we have decided was reasonable. Accordingly, there was an overpayment of £29-38

Page 92 - £29-38

Page 94 - £29-38

Page 99 - £65-80 (Late payment fee – not reasonable in view of above.)

Page 103 -£88-12 (The management fee charged had increased.)

Page 109 -£29-37 (The management fee charged had reduced.)

Page 113 -£29-37

- £32-13 (Bank Charges – not reasonable in view of above and also the Applicant's evidence that she paid on time.)

Page 119 - £29-37

- £24-54 (Bank Charges – as above.)

Page 126 - £29-37

- £6-64 (Bank Charges – as above)

Page 137 - £29-37

- £7-85 (Electricity)

- £0-92 (Bank Charges – as above)

(Note that we allow the £171-55 for a Health and Safety Assessment. The invoice is on Page 124 and we are satisfied that this work was done and was reasonable.)

Page 141 - £35-25 (Management Fee charged had increased.)

- £0-06 (Electricity)

Page 145 - £33-75

- £0-11 (Electricity)

Page 153 - £39-50

- £0-16 (Electricity)

Page 161 - £33-75

- £2-56 (Electricity)

Page 164 - £33-75

(Note that we allow the £229-43 for an Asbestos Survey.
The invoice is on Page 158 and we are satisfied that this
work was done and was reasonable.)

Page 167 - £33-75

Page 179 - £36-72

- £40-00 (Electricity)

Page 191 - £36-71

- £56-13 (Electricity)

Page 205 - £42-59

- £29-73 (Electricity)

(Note that we allow £146-88 for the Survey – Pages 26 to 28
- which we consider was reasonable.)

Page 214 - £36-72

- £30-82 (Electricity)

(Note that we allow £67-57 for repairs and maintenance. The
Invoice is on Page 195 and is reasonable.)

Page 235 - £44-19

- £71-32 (Electricity)

- £85 (Tribunal costs – not allowed)

Page 238 - £43-56 (Management Fee allowed at £25 + VAT of £5
(20%) = £30)

(Electrical Problem rectified in January 2011)

(Repairs and Maintenance - £61-20 - reasonable.)

Page 241 - £43-57

Page 243 - £43-57

Page 263 - £43-57

(Asbestos Survey Update - £69 – allowed)

Page 265 - £43-56.

24. Thus the total overpaid (in respect of the period ending 28th February 2012) is £1,401-39.

Section 20C and Re-imbusement of Fees

25. In view of our decisions (above) it is just and equitable that the Orders set out at C and D above are made.

SIGNED: A.J.ENGEL – Chairman