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LONDON RENT ASSESSMENT PANEL

**DECISIONS OF THE LEASEHOLD VALUATION TRIBUNAL ON APPLICATIONS
UNDER SECTIONS 27A & 20C OF THE LANDLORD AND TENANT ACT 1985
AND SCHEDULE 11 OF THE COMMON HOLD AND LEASEHOLD REFORM
ACT 2002**

Case Reference: LON/00BJ/LSC/2012/0847 –LVT+
(IQT09588 – Edmonton County Court)

Premises: 523, Omega Building, Smugglers Way, London
SW18 1AZ

Claimant: Riverside West (Block B) Limited

Representative: Mrs M.Khan (Legal Consultant)

Defendant: Flavia Fatima Joachina Fernandez

Representative: Mr A.Chang (Accountant)

Date of hearing: 2nd May 2013

**Leasehold Valuation
Tribunal:** Mr A.J.ENGEL M.A. (Hons.)
Mr M.CAIRNS MCIEH
Mrs. J.CLARK J.P.

Date of decisions: 2nd May 2013

DECISIONS

A. The Defendant is liable to pay to the Claimant the amount claimed in the County Court proceedings in respect of service charges (£3,078-78) and an administration charge of £360.

B. The Tribunal makes no order under Section 20C of the Act.

C. The Tribunal orders that the Defendant shall pay the Claimant £150, within 28 days of this Decision, in respect of the reimbursement of the Tribunal fees paid by the Claimant.

D. The Tribunal has no jurisdiction over County Court costs and County Court fees.

REASONS

Background

1. The Defendant is the (long) Lessee of the Premises. The Claimant is her Landlord.
2. On 28th January 2011, the Claimant issued proceedings in the County Court claiming £3,078-78 for unpaid service charges and/or ground rent and an administration charge of £360.
3. On 15th November 2012, the County Court referred the matter to the Leasehold Valuation Tribunal (LVT).

Hearing

4. A hearing took place before the LVT on 2nd May 2013 when the Claimant was represented by Mrs Khan and the Defendant was represented by Mr Chang.
5. Representations were made by both parties at the hearing and a large number of documents were adduced in evidence.

The issues

6. Mr Chang wished to raise a large number of issues. However, the Upper Tribunal has ruled in the case of Staunton v Taylor (LRX/87/2009) that only issues which arise on the pleadings before the County Court can be decided by the LVT in cases which are referred by the Court to the LVT. We deal below with the 3 issues so raised.

Consort Management Limited

7. The demands issued to the Defendant by the Claimant requested that payment be made to Consort Management Limited. Mr Chang submitted that Consort Management Limited was not properly constituted as the Claimant's agent. We are satisfied, having heard Mrs Khan's explanation that this submission is erroneous but, in any event, we hold that such matter is irrelevant to the matters we have to determine. It is clear that both Consort Management Limited and the Claimant regarded the agency as being in place and that suffices for the purposes of this case.

The Demands

8. The evidence clearly established that demands were issued by the Claimant to the Defendant and that they were received by the Defendant prior to this matter being referred to the LVT. In these circumstances, no other issues with regard to the demands arise on the County Court pleadings.

The amount of service charges

9. In Paragraph 10 of a statement, dated 29th July 2011 which was before the County Court, the Defendant states:-

"The accounts for the years 2009 and 2010 and the budget estimates have shown that a number of expenditure, such as Insurance both for the residential units' estate as well as for the Omega Block would appear excessive. Concierge costs, water feature, landlord rent for the management suite, maintenance and repairs."

10. After the matter was referred to the LVT, Directions were given by Mr Jack (Procedural Chairman) for the inspection and copying by the Defendant (or her agents) of the relevant documents. We were informed at the hearing that the Defendant's agents had spent 2 days inspecting such documents but had not completed the inspection. However, both Mrs Khan and Mr Chang submitted, at the hearing, that we should proceed to deal with the case (without an adjournment) and we agreed to do so.

11. The upshot is that the Defendant has never particularised her challenges – as required by the case-law – which requires items in service charge accounts to be identified and the general nature of the challenge to be specified before a Landlord is called upon to answer a challenge.

Service Charge – Conclusion

12. The service charge arrears claimed are payable – in the sum of £3,078-78.


Administration Charge

13. An administration charge of £ 360 is claimed in respect of legal fees. We are satisfied, having regard to the decision of the Court of Appeal in Robinson, Simpson & Palmer v Oram nd Ghoorun [2011] EWCA Civ 1258, that this amount is payable – as claimed.

Section 20C and Re-imbusement of Fees

14. It follows from our determinations (above) that it is just and equitable to make Orders C and D above.

SIGNED:-



(A.J.ENGEL – Chairman)