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LVT 9

Our Ref: BIR/00CN/OAF/2002/0048

MIDLAND RENT ASSESSMENT PANEL

Leasehold Reform Act 1967

Housing Act 1980

DECISION OF LEASEHOLD VALUATION TRIBUNAL

ON AN APPLICATION UNDER S21 OF THE LEASEHOLD REFORM ACT 1967

Applicant: Mohammed Yafai
Respondent: Mr S Najran, Mr S P Najran, Mr A K Najran
Re: 59 Cheddar Raod, Balsall heath, Birmingham B12 9LJ

Date of Tenants Notice: 1/2/99
RV as at 1.4.73: £128.00
Application dated: 11/9/02
Heard at: The Panel Office
On: 30/10/02

APPEARANCES:

For the Tenant: Mr Anthony Brunt

For the Landlord: Mr S P Najran

Members of the Leasehold Valuation Tribunal:

Mr R T Brown FRICS (Chairman)

Mr D Salter

Mrs M McKenzie

Date of Tribunals decision: 19 NOV 2002

**REFERENCE BIR/00CN/OAF.2002/0048 &
BIR.OOCN.OC6/2002/0031**

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

MIDLAND RENT ASSESSMENT PANEL

DETERMINATION OF THE LEASEHOLD VALUATION TRIBUNAL

IN RESPECT OF

**MOHAMMED MAHMOOD YAFAI v S P, S & A K NAJLAN
59 CHEDDAR ROAD BALSALL HEATH BIRMINGHAM B 12 9LJ**

BACKGROUND

This is an application for a determination under Section 9 of the Leasehold Reform Act 1967 (as amended) for the price to be paid for the freehold interest in 59 Cheddar Road Balsall Heath Birmingham B12 9LJ and an application under Section 21 (1)(b)(a) of the Leasehold Reform Act 1967 in respect of the reasonable Landlords costs under Section 9(4) of the above Act and Schedule 22 Part 1(5) of the Housing Act 1980.

The Lessee holds the property by way of an Underlease dated 13th April 1965 for a term of 99 years (less three days) from the 24th June 1902 at a ground rent of £5 per annum.

The Lessee's Notice of Claim is dated 1st February 1999 when there were approximately three years unexpired on the Lease.

The Tribunal inspected the property on the 13th October 2002 in the presence of the Lessee, Mr Yafai, and his valuer, Mr Brunt FRICS. Mr Najran the freeholder appeared as the Tribunal were leaving the premises.

THE PROPERTY

The property comprises a back of pavement inner terrace house constructed circa 1900 in traditional materials. The centrally heated accommodation is

as

follows. On the ground floor, hall, two living rooms, kitchen and bathroom (full suite). On the first floor, two double and one single bedrooms.

Outside, garden to the rear only with vehicular access.

THE HEARING

Mr A W Brunt FRICS appeared for the Lessee, Mr Yafai.

Mr S P Najran, one of the freeholders, appeared in person.

PRELIMINARY ISSUE

Mr S P Najran sought an adjournment to the hearing.

He explained that the property was owned jointly by himself and his two brothers, who unfortunately did not communicate regularly. The Notice had been served on 93 Vicarage Road Kings Heath Birmingham B14 which was the former address of his brother, Mr S Najran. The property had been void for a number of years.

The Chairman explained that Mr S Najran had telephoned the Panel office recently to explain this and requested all future correspondence to be sent to his Solicitor, Mr Martin of Messrs William Freeman & Lloyd with copies to his current address 98 Steward Road Birmingham B18 7AF.

At the last moment, apparently, Mr S Najran had contacted Messrs Bigwoods and a meeting had been arranged with all three brothers and Mr Hackett FRICS of that firm to seek advice with regard to the valuation.

Mr Brunt for the Lessee objected to the adjournment on the basis that it was prejudicial to the tenant. It was clear that Mr S Najran had instructed Messrs Bigwoods with whom he had been in correspondence on the 24th September 2002. Furthermore, Mr Brunt had been writing to Mr S Najran at an address in Somerset Road as well as the address in Steward Road, but unfortunately no reply had been received.

The Chairman questioned Mr Brunt as to the "last known address" of Mr S Najran and was advised that Mr Brunt believed the address for all three brothers as stated on the office copy entries was the 93 Vicarage Road address. He further suggested that office copy entries could be obtained from his clients Solicitors by way of verification.

The Chairman adjourned the hearing whilst Mr Brunt spoke to his clients Solicitor and obtained by fax office copy entries. The office copy entries revealed that the proprietors were listed as Mr S Najran of 93 Vicarage Road Kings Heath Birmingham and S P and A K Najran both of 5 Oxford Road Moseley. Notice had not been served on the Oxford Road address.

THE DECISION

The Tribunal have heard evidence and are satisfied that the Notice was correctly served on Mr S Najran at 93 Vicarage Road. However they are not satisfied that the Notice was also served on S P and A K Najran at 5 Oxford Road Moseley.

In the circumstances the Tribunal dismisses the application on the basis that the Notice of Claim dated 1st February 1999 was not correctly served upon the Freeholders.

Signed Robert T Brown.

Robert T Brown FRICS 19 NOV 2002
Chairman