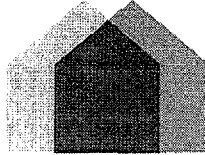


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**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL**

**SECTION 168(4) COMMONHOLD AND LEASEHOLD REFORM ACT 2002**

REF: LON/00AM/LBC/2007/0014

FLAT 3, 11 POWELL ROAD, LONDON E5

MERCIA INVESTMENT PROPERTIES LIMITED

Applicant

GARY DAVID MASON

Respondent

Tribunal: Mr M Martynski (Solicitor)  
Mr R Potter FRICS  
Mrs S Baum JP

Present at hearing:

Date of hearing: 4 June 2007

Date of decision: 4 June 2007

**Summary of decision**

1. There has been a breach of covenant on the part of the Respondent in that he has failed to comply with clause 4(8) of his lease by failing to serve on the Applicant a notice of assignment.

**Background and issues**

2. On 6 December 2005 the Respondent purchased the leasehold interest in the property at flat 3, 11 Powell Road, London E5.

3. The lease in question is dated 23 July 1999 and is for a term of 125 years from 25 March 1999. The relevant parts of clause 4(8) of the lease provide as follows;

*'Within four weeks after any transfer assignment .....to give notice in writing of such transfer assignment .....and to deliver to the landlord and his solicitors within such time as aforesaid a verified copy of every instrument of transfer assignment .....and to pay the Lessor a fee of £40.00.....'*

4. The Applicant's case, as put by Mr Paine its managing agent, was that no notice of the assignment of the lease to the Respondent was given to the Applicant and that the Respondent had not replied to a letter sent by Mr Paine dated 12 March 2007.

5. The Respondent did not make any response to the proceedings.

6. On the papers before it, the Tribunal determined that there had been a breach of covenant as alleged. Mr Paine also sought an order for the payment of his profit costs (not including any fees paid to the Tribunal). The only power that the Tribunal has to award such costs is set out in paragraph 10 of Schedule 12 Commonhold and Leasehold Reform Act 2002 which provides as follows;

*(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) he has made an application to the leasehold valuation tribunal which is dismissed in accordance with regulations made by virtue of paragraph 7, 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, or*

*(b) such other amount as may be specified in procedure regulations.*

*(4) A person shall not be required to pay costs incurred by another person in connection with proceedings before a leasehold valuation tribunal except by a determination under this paragraph or in accordance with provision made by any enactment other than this paragraph.*

7. The Tribunal does not make any order for payment of the Applicant's costs pursuant to the statutory provision set out above. The Respondent has not taken any part in the proceedings, his lack of response could not be described as frivolous, vexatious, abusive, disruptive or otherwise unreasonable.



Mark Martynski – Tribunal Chairman

4 June 2007