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REF LON 00AE/LSC/2010/0056

IN THE LEASEHOLD VALUATION TRIBUNAL

IN THE-MATTER OF THE LANDLORD AND TENANT ACT 1985
SECTION 27A

**AND IN THE MATTER OF 18 and 18A Reeves Avenue London
NW9 8LP**

Applicants

(1) Ana Velasco
(2) Caroline Walsh

Respondent

**Shulem B Association
Limited**

The Tribunal

Mr P Leighton LLB (Hons)

Date of Decision

14th April 2010

Introduction

- 1 By an application dated 23rd January 2010 the Applicants applied to the tribunal for a determination of their liability to pay service charges under section 27A of the Landlord and Tenant Act 1985 in respect of the property known as 18 and 18A Reeves Avenue London NW9 8LP
- 2 The property is a house built in the 1930s and divided into two flats according to an insurance quotation obtained by the Applicants and the First Applicant is the leaseholder of flat 18A and the second Applicant the leaseholder of the flat 18
- 3 Directions were given on 5th February 2010 and it was directed that the matter should be dealt with as a paper determination at the request of all the parties
- 4 The only issue before the Tribunal is the issue of insurance for the premises. The Applicants have done their best to comply with the direction but the respondent and its agents J S Estates have failed completely to comply with the directions and have ignored them

The Issue

- 5 The only issue with which the Tribunal is concerned is that of the insurance of the property in question for the current year, which is in the sum of £938.70. The Applicants contend that this premium from Axa Insurance is far too high and that they are able to arrange insurance for the premises at approximately one third of the cost.

The Lease

- 6 The leases of the flats are for 99 years from September 1998 at a rent commencing at £100 per annum and rising to £400 per annum over the course of the term.
- 7 By clause 3(2) of the lease the lessee covenanted "to pay to the lessor on demand "all such sums as the lessor may from time to time pay for insuring and keeping insured the demised premises against loss or damage by fire tempest storm and such other risks as the landlord

form time to time considers necessary in the full rebuilding cost and also for insuring against loss of rent in an amount of at least two years the said yearly rent hereby reserved “

- 8 By clause 4(ii) of the lease the lessor covenanted to “at all times throughout the term keep the demised premises and the lessor’s fixtures and fittings therein against loss or damage by fire storm and tempest and such other risks normally covered by a block of flats policy the full rebuilding cost thereof “ and at least two years rental and architects and surveyor’s fees for rebuilding “in some insurance of repute to be selected by the lessor”.

The Law

- 9 Insurance is now treated as a service charge by reason of the amendments made to Section 18 of the 1985 Act by the Commonhold and Leasehold Reform act 2002. As a result a leasehold valuation Tribunal is entitled to consider an application for payment of insurance and such insurance like any other service charge is recoverable only to the extent to which it is reasonably incurred. “and the amount payable shall be limited accordingly”
- 10 It has been held that a landlord is not required to obtain insurance from the cheapest provider and may if it is in his interest to do so insure under a block policy. The insurance premium, however, must be within a range, which is reasonable in the sense that it is at a rate comparable to the market for similar types of policies.

The evidence

- 11 The only evidence before the Tribunal is that provided by the tenants who have obtained a quotation in the sum of £220,000 in the sum of £357.38 with cover also being provided by Axa Insurance for the whole house and on similar terms to that provided by the landlord although there is no cover for loss of rent. Under the terms of the lease however, loss of two years rental on the ground rent is only £200. .

12 The insurance obtained by the landlord according to the application form is £508.34 for Flat 18 and 3430.36 for Flat 18A. The Applicants contend that a fair figure for insurance would be between £400 and £450 per annum

The Tribunal's Decision

13 In the absence of any explanation from the landlord as to what steps it has taken to test the market, the fact that there have been a number of sharp increases in cost and that tenants have found a quotation which is under half that of the amount charged by the landlord the Tribunal is entitled to conclude that the sums being charged by the landlord are in excess of a reasonable market figure and may indeed include a commission payable to the landlord for insuring with the present insurer.

14 The Tribunal is in some difficulty in arriving at the correct figure in this case owing to the lack of co operation from the landlord and as a result it is inclined to adopt a figure closer to that contended for by the Applicants who have at least provided some evidence as to possible costs.

15 As there has been no hearing and discussion of the possible arrangements which the landlord considered necessary for this insurance the Tribunal proposes to estimate the annual insurance figure for the property in the sum of £500 per annum for the year 2010. No doubt if the landlord seeks to recover a larger figure for the year 2010 11 it will arrange to provide some evidence on which the Tribunal can make such a determination

Chairman Peter Leighton

Date 13th April 2010

