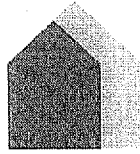


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Residential
Property
TRIBUNAL SERVICE

Case reference: LON/00AU/LSC/2009/0779

**DECISION OF THE LONDON LEASEHOLD VALUATION TRIBUNAL ON A
CLAIM TRANSFERRED FROM THE COUNTY COURT UNDER
PARAGRAPH 3 OF SCHEDULE 12 TO THE COMMONHOLD AND
LEASEHOLD REFORM ACT 2002
(SECTION 27A LANDLORD AND TENANT ACT 1985)**

Property: Flat 1, 24 Old Royal Free Square, London N1 0YH

Claimant/ applicant: Circle 33 Housing Association Limited

Defendant/respondent: Guy Hipwell

Heard: 7 June 2010

Appearances: Katerina Birkeland, Circle 33 Leasehold
Management, for the landlord

The tenant

Tribunal: Margaret Wilson
John Reed FRICS
Sue Wilby

Date of decision: 10 June 2010

he had suffered by reason of the damp penetration, and the tribunal decided to arrange a preliminary hearing to decide whether it had jurisdiction to award damages to him in these circumstances. By a decision dated 23 March 2010, made on consideration of the documents alone, a tribunal determined that it did not have such jurisdiction and made directions for a hearing of the issues relating to the tenant's liability to pay the service charges claimed, which included a direction that by 4 May 2010 the tenant should serve a statement identifying the costs which he challenged.

5. At the hearing on 7 June 2010 the landlord was represented by Katerina Birkeland of Circle 33 Leasehold Management, and the tenant appeared in person. He said that documents which he had provided to the landlord for inclusion in the hearing bundle had not been included and were not before the tribunal. During the hearing unsuccessful attempts were made to locate the documents at the landlord's office so that they could be faxed to the tribunal and the tenant therefore, at the tribunal's request, emailed the documents to the tribunal shortly after the hearing. He also, in the email, asked us to order disclosure relating to costs which, at the hearing, he had conceded that he was liable to pay but which he now wished to question. However we are satisfied that it would not be right to permit him to do so. We can understand his concern as to accuracy of the landlord's accounting, but we are satisfied that he had sufficient opportunity, both in his written statement of case (served on him before the pre-trial review) and at the hearing, to identify the costs which concerned him and that, in the interests of fairness to both parties, it would not be appropriate in the circumstances to permit him to raise issues which he did not raise at the right time.

6. The tribunal's jurisdiction in this case is derived from section 27A of the Landlord and Tenant Act 1985 ("the Act").

The issues

7. According to a spreadsheet prepared by the landlord the tenant's arrears of service charges at the date of the claim stood at £4044.45. The charges which form the claim are set out in a schedule attached to the landlord's statement of case.

8. Ms Birkeland conceded at the outset that the landlord had dealt so poorly with the damp penetration into the tenant's flat that he should not be held liable to pay management charges for the years 2005/2006 to 2008/2009 inclusive. These amount in all to £386.92. Of the other charges, the tenant said that he challenged only the following:

2006/2007

- light and power: £123
- general repairs: £416.47

2008/2009

- light and power: £211.64

9. In relation to the charges for light and power in each of these two years, the tenant's complaint was that they were out of line with the equivalent charges for previous and subsequent years. This Ms Birkeland accepted. She said that the landlord could not provide any documentary evidence to support these charges and she could not explain why they were significantly larger than in preceding and subsequent years. She conceded that a reasonable charge for the service in 2006/2007 would have been £60 and, in 2008/2009, £80.05, both of which the tenant accepted as reasonable.

10. The general repairs carried out in 2006/2007 are listed in a spreadsheet prepared by the landlord on which the repairs of which a proportion of the cost

13. The tenant's liability in respect of repairs in 2006/2007 we thus determine to be not £416.47 but £19.17 (£15 + £4.17).

14. We thus determine that, of the sum claimed, the tenant is liable to pay £3065.64 (£4044.45 – (£386.92 for management + £194.59 for light and power + £397.30 for general repairs = £978.81). Ms Birkeland conceded that the landlord did not intend to seek to recover interest on this sum and it is thus not necessary to determine the dates upon which these charges were due to be paid. We do not take her concession in relation to interest to apply to any interest which may become due after the date of any judgment of the court. She also agreed that the landlord would not seek to place any of its costs referable to the proceedings on any service charge.

15. We wish to add that it is the landlord's obligation to the tenant and to any other leaseholders to comply with the Act, and that it should retain invoices and other documents relevant to its service charges expenditure for inspection by leaseholders.


CHAIRMAN.....

DATE: 10 June 2010