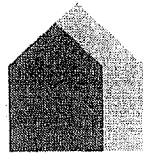


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DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

**Schedule 11 Commonhold and Leasehold Reform Act 2002 and
Landlord and Tenant Act 1985 section 20C**

LON/00BB/LAC/2010/0016

Premises: 55 George Hudson Tower, 28 High Street Stratford, London
E15 2PL

Applicants: Mr John Moore and Mrs Karen Moore

Respondents: Rendall & Rittner Limited (1)
Bow Bridge (Stratford) Limited (2)

Tribunal: Dr Helen Carr
Mr Bryan Collins

Date of Decision: 5th July 2010

Decision

The Tribunal determines that the Applicants are not liable for the legal fees and administrative charge demanded by the Respondents.

Background

1. The Applicants, Mr and Mrs Moore, who are the long leaseholders of 55 George Hudson Tower, 28 High Street Stratford London E15 2PL, (the premises) have applied to the Leasehold Valuation Tribunal for a determination of the reasonableness of and liability to pay administration charges. They have also made an application under s.20C of the Act.
2. The first Respondent, Rendall & Rittner Limited, are the managing agents of the premises which is a mid terraced two-storey post second world war house which has been converted into two flats, one on each storey.
3. The second Respondent, Bow Bridge (Stratford) Limited is the management company on whose behalf the first Respondent acts.
4. At a Directions hearing on 1st June 2010 the Tribunal identified the following issue as being in dispute: the payability and reasonableness of an administration charge in the sum of £70.50 demanded by the managing agents, the First Respondents. In particular the Tribunal has to determine
 - a. Whether the Applicants' lease provides that an administration charge may be made in relation to the managing agents administrative costs;
 - b. If the lease does so provide, whether the amount of that charge is reasonable in the circumstances.
5. The Tribunal also determined that the matter be dealt with on a paper track basis unless either party requested an oral hearing. No such request was made within fourteen days of the Directions and therefore the matter is being determined without a hearing.
6. Subsequent to the Directions hearing the Applicants indicated to the Tribunal that they wished also to challenge the reasonableness of legal fees in the sum of £150.88. The Tribunal therefore amended the directions to include this charge.

Determination

The terms of the lease

7. The Applicants argue that the terms of the lease do not entitle the Respondent to make an administration charge or the charge for the legal fees.
8. The Respondents rely upon Schedule H clause 4 of the lease of the premises which says

‘To pay all proper and reasonable costs charges and expenses (including legal costs and fees payable to a surveyor) incurred by the Landlord in or in contemplation of any proceedings or service of any notice under section 146 and 147 of the Law of Property Act 1925 including the reasonable costs charges and expenses aforesaid of and incidental to the inspection of the Premises the drawing up of schedules of dilapidations and notices and any inspection to ascertain whether any notice has been complied with and such costs charges and expenses shall be paid whether or not forfeiture for any breach shall be avoided otherwise than by relief granted by the court.
9. The view of the Respondents is that this clause entitles them to both the administrative charge and the legal fees.
10. The Applicants argue that the clause does not entitle the Respondents to the monies demanded as no steps required prior to forfeiture proceedings had been taken by the Respondent. Moreover, as the Applicants state that they did not receive any service charge demands from the Respondents in connection with the proceedings any steps taken in relation to forfeiture would have been precipitate.
11. The Tribunal accepts the argument of the Applicants. In its opinion to suggest that proceedings taken by the Solicitors to recoup outstanding service charges are part of forfeiture proceedings is precipitate. The appropriate steps at this stage would be to pursue arrears of service charges and not to take steps in connection with forfeiture. It therefore DETERMINES that clause 4 of Schedule H does not entitle the Respondents to the monies claimed.

Reasonableness of the sums demanded

12. For the avoidance of doubt and in case the Tribunal is wrong on the above decision the Tribunal also decided to determine the issue of reasonableness of the charges demanded.
13. The Respondents argue that the amount of the solicitor’s fees is reasonable as it is a fixed fee covering a variety of matters relating to forfeiture proceedings. They argue that the administration charge is reasonable because several checks have to be made before the case is prepared and referred to the client’s solicitors including checks with the cashier to ensure that no monies have been made.
14. The Applicants argue that because they did not receive any service charge demands from the Respondents the charges are unlawful and unreasonable.
15. The Tribunal considered the arguments made by the parties carefully. In its opinion it would have been reasonable to instruct solicitors to pursue the

service charge arrears and that the fixed fee for the solicitors of £150.88p is a reasonable charge. It does not however consider that the additional charge of £70.50 for referring the matter to the solicitors to be a reasonable amount to charge. It therefore DETERMINES that if the amounts demanded are payable the sums demanded are limited to £150.88p.

Section 20C application

16. The Applicants have made a section 20 C application in connection with this matter. The Respondents have not pointed to a clause in the lease which entitles them to charge the costs of proceedings at the Tribunal to the Applicant's service charge account. Instead the Respondents have asked for the reimbursement of their costs because there is no merit in the Application. However in the light of the Tribunal's determination above the Tribunal DETERMINES that the Applicants' application under section 20 C succeeds.

John Carr

5th July 2010