

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

LEASEHOLD VALUATION TRIBUNAL

Property : 10 Goldwell Road
Norwich NR1 3PX

Applicant : Mrs. Jennifer B. Waring

Respondent : Norwich City Council

Case number : CAM/33UG/LSC/2005/0011

Tribunal : Mr. Bruce Edgington, Chair
Mr. David Brown FRICS

Application : to determine liability to pay services charges

DECISION OF THE TRIBUNAL

Introduction

1. This application to determine liability to pay service charges was received on the 2nd February 2005. The Applicant stated that she was content for the Tribunal to determine matters without a hearing and 28 days' notice has been given that this determination would be dealt with without a hearing. No-one has requested a hearing,

The Applicant's Case

2. Mrs. Waring complains that one item of her service charges for 2003 i.e. the charges for the installation of new communal lighting in her building in the sum of £696 is unreasonable.
3. She also says that she is not happy with the way the work was carried out and that she was not asked about a light being attached to her wall. As a preliminary point it seems from the paperwork that these two items have been resolved at least to the extent that the Respondent has offered to deal with any

problem with internal decoration arising from the installation and to move a light which was causing a shadow.

4. In view of this, the Tribunal will concentrate on the amount of the service charge. The Applicant's main complaint seems to be that she is paying more than other lessees on the estate who are paying an average of £350.

The Respondent's Case

5. The Respondent has filed a number of documents from which it seems that there are a number of blocks of flats on this estate. There came a time when the communal lighting needed upgrading. Unfortunately only one of the blocks, namely 6-11 Goldwell Road needed to have a new mains supply cable which accounts for the discrepancy between this block and other blocks.
6. From the papers submitted, it is the Tribunal's view that the works were reasonable and the cost is reasonable. It was also reasonable to expect only the lessees of block 6-11 Goldwell Road to pay for the new cabling to their block.

Decision

7. The Tribunal considered the lease which is dated 31st October 1988 and runs for a period of 125 years from that date. Clause 4(3) contains the covenant to pay service charges by reference to Schedule C. From this the Respondent is entitled to collect a fair share of the council's "expenditure attributable to the property...proportionate to the number...claiming the benefit of or entitled to use the services specified in Schedule D" i.e. the communal lighting.
8. There is an arbitration clause but this does not bind the Tribunal (Section 27A **Landlord and Tenant Act 1985** ("the 1985 Act")) as it is not a post dispute arbitration provision.

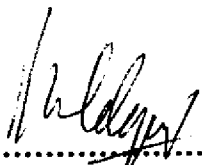
9. Although the wording of the lease is clumsy, it is the Tribunal's decision that the lease allows the Respondent to recover monies expended on the communal lighting from the Applicant.
10. Unfortunately for the Respondent the matter does not end there. Section 20 of the 1985 Act requires the Respondent to consult with the lessees when the cost of the work is more than £50 per flat in this block or £1,000 whichever is the greater. In this case the limit is £1,000 and the work clearly was going to exceed that amount. Failure to consult properly or to obtain the permission of the County Court means that the amount which could be claimed for the whole work in this case is £1,000 which sum would be divided equally between the 6 flats.
11. The level of consultation required in this case i.e. before the recent changes which do not apply is:-

- “(a) At least two estimates for the works shall be obtained one of them from a person wholly unconnected with the landlord*
- (b) A notice accompanied by a copy of the estimates shall be given to each of those tenants concerned or shall be displayed in the one or more places where it is likely to come to the notice of all those tenants*

(section 20(4) of the 1985 Act)

12. The Respondents have produced 2 letters in its bundle i.e. an undated letter stating that they are contracted to one company and cannot obtain 2 estimates for works undertaken and a letter dated 7th January 2003 which purports to be a 'Section 20 Notice'
13. With regard to the first letter, this does not, of course, absolve the Respondent from the responsibilities imposed on it by the 1985 Act. It should be noted by them that the consultation requirements are now even more strict as a result of recent legislation.

14. With regard to the second letter this only encloses one estimate and there is no information to suggest that any other estimate was displayed elsewhere in accordance with Section 20 of the 1985 Act.
15. It is therefore the decision of this Tribunal that the amount of service charges recoverable from the Applicant in respect of this work is £1,000 for the whole building i.e. only £166.67 from the Applicant.



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Bruce Edgington

Chair

10/04/2005

