

**SOUTHERN RENT ASSESSMENT PANEL**  
**LEASEHOLD VALUATION TRIBUNAL**

Case Number: CHI/43UH/LIS/2004/0011

Re: Lower Flat 20 Chaucer Road Ashford Middlesex

**Between:**

Mrs Sandra Goodman

Applicant

and

Longmint Limited

Respondent

**Decision**

Date of determination : 6<sup>th</sup> August 2004

Date of Issue: 10<sup>th</sup> August 2004

Tribunal: Mr R P Long LLB

## **Decision**

1. Upon the information before me I do not consider, for the reasons set out below, that it is open to me to determine that the insurance premium demanded in this matter is unreasonable. The landlord is not however entitled to recover the finance charge, and upon the figures described in paragraph 8 below the applicant is responsible for paying the sum of £282-38 to the respondent now for the insurance premium in issue in this case.

## **Reasons**

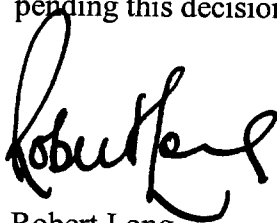
2. I am a member of the Panel appointed to it by the Lord Chancellor, and such am empowered to exercise the functions of the tribunal in this case, in which the parties have consented to determination without a hearing, in accordance with the terms of regulation 13(5) of the Leasehold Valuation Tribunal (Procedure) (England) Regulations 2003 (No.2099 of 2003).
3. Mrs. Goodman's application to the tribunal was made on 15<sup>th</sup> March 2004. It is an application relating to service charges for the year 2003/04 made under section 27A of the Landlord & Tenant Act 1985 (as amended) ("the Act"). It originally went to the offices of the London Panel, but was then sent to this Panel as the appropriate Panel within a few days. The matter did not come before me for provisional directions until 21<sup>st</sup> May because consent to the matter proceeding without a hearing was not received from the landlord's agents until some six weeks after the papers were first sent out to the parties.
4. Thereafter delay has occurred because letters containing what amounted to further representations passed between the parties until early July, after which an absence on holiday in the respondent's agent's office delayed a final response on the respondent's behalf until 22<sup>nd</sup> July. All of this has contributed to the fact that this case has taken much longer to reach determination than might normally be expected where the parties have agreed (as here) to a determination without a hearing.
5. The issue between the parties upon the papers before me was whether or not the sum of £ 291-95 is or is not unreasonable. No other aspect relating to the service charges in the year in question has been canvassed by either party. To the extent that sums in issue are reasonable I have also to determine in applications such as these how much is payable by the applicant to the respondent, when and in what fashion.
6. Paragraph (12) of clause 2 of the applicant's lease of her property, dated 30<sup>th</sup> September 1993, requires the lessees to pay on demand a yearly sum equal to the sum or sums which the landlords from time to time pay by way of premium (including any increased premium payable by reason of any act or omission of the lessee) for keeping the demised premises insured against loss or damage by fire and other risks under the lessor's covenant in that behalf that it contains. That covenant requires the lessor to insure against loss or damage by fire and aircraft and such other risks as are normally covered by a

householder's comprehensive insurance policy through the agency of the lessor.

7. A summary of cover dated 27<sup>th</sup> June 2004 apparently provided by the landlord's agents shows that 20 Chaucer Road is insured for a replacement cost of £218400. The lease indicates in its recital that that property is divided into an upper and a lower flat. The summary of cover shows that the premium was £537-86, together with £26-89 insurance premium tax and £16-94 finance charge. It further shows that the items that might usually be included in a householder's comprehensive insurance policy are included in those covered. It also shows cover for loss of rental income, which such a policy might not normally cover, but since the ground rent is presently £50 per annum I have felt able to regard the additional cost of such cover, which the wording of the lease might not entitle the leaseholder to recover, as being likely at present to be so small as to be immaterial in the overall situation.
8. I considered that in order to give commercial effect to the lease, it was appropriate to include the insurance premium tax in the recoverable amount since such a tax did not, I believe, exist at the time when the lease was granted. On the other hand, the wording of the lease does not at any point, so far as I have been able to see, permit the lessee to recover a cost of financing the premiums. The total cost of the premium, tax and finance cost amounts to £581-69.
9. I have been unable to reconcile that with the sum of £291-95 that is said to have been demanded. One half of total I have mentioned amounts to £290-85 in round figures. I assumed (there being no evidence to point in any other direction) that the premium is to be equally shared between the two flats so that this would seem to be the amount that ought to have been demanded on those figures. I could see no apparent reason why there might have been so marginal a difference between the sums claimed from the two flats if the figure of £291-95 had indeed been the correct one.
10. I determine that of the sum of £290-85, an amount of £8-47 (one half of the financing charge) is irrecoverable. That is because the lease makes no provision for the recovery of more than the cost of the insurance premium, and the additional cost of a financing arrangement is not in my judgement a part of the premium. Consequently it appears to me that the amount that should have been demanded, on the respondent's figures, is £290-85 less £8-47, that is to say £282-38.
11. The applicant has produced three quotations for insurance. Two are for her flat alone and one is for the whole of the building. I could not be sure that they afford the same cover as does the policy taken by the lessor because they do not show that degree of detail as the summary produced by the lessor. I observed that the quotation from Direct Line was for building only and that from AXA was for "building insurance" whilst the SAGA quote was for the whole building with 'limited' accidental damage cover, but that was all the information I had, whilst the lessor's schedule of cover went into considerably more detail and included matters that may properly be insured in the terms of

the covenant, but may not be included in the applicant's quotations. I could not in consequence in any way be certain that the quotations before me were all for similar cover.

12. Even so, I had some reservations, despite the representation by the lessor's agents that the insurance was arranged through (the apparently independent) Hanover Park Commercial Limited, when I saw that the schedule of cover was from Haywards Insurance Services Limited rather than from Hanover Park. Equally, I could not readily see why the lessor's agents originally indicated in their letter of 6<sup>th</sup> November 2003 to the applicant that it was not possible to give individual quotations for each property they were, by the time when they prepared the summary of cover, able to show exactly what the cost was for this property. Equally, the statement in their letter of 11<sup>th</sup> May 2004 that Hanover Park Commercial Limited approached a number of insurers upon renewal does not amount to any kind of representation as to the outcome of those approaches.
13. Despite those reservations, the evidence before me on this occasion was not sufficient to enable me to establish that the premium paid for the cover afforded fell outside of the band of what might be regarded as reasonable for that cover. That was because the comparative information provided to me was insufficiently clear to enable me to be reasonably satisfied that the cover afforded was to all intents and purposes the same, and that the very marked difference between the sum the landlord has charged and the amount of the quotations obtained by the applicant indicated that the former was an unreasonable cost. I could not be sure on the information provided to me that all of the elements that were covered by the landlord's policy would have been included in the policies for which quotations had been provided to the applicant. It may be that any discrepancies in this respect could have had a marked effect upon the premiums that had been quoted.
14. On the information before me therefore I determined that the sum of £282-38 is payable for this year. Since it is payable on demand, and a demand (albeit for a slightly higher sum has already been made but stands in abeyance pending this decision, it is payable now by the applicant.



Robert Long  
A member appointed to the  
Panel by the Lord Chancellor

6<sup>th</sup> August 2004