

LON/00AU/LIS/2004/0021

**THE LEASEHOLD VALUTION TRIBUNAL FOR THE LONDON RENT  
ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL  
ON AN APPLICATION UNDER SECTION 27A  
OF THE LANDLORD AND TENANT ACT 1985**

**Premises:** 7, Bonnington House, Killick Street, London, N1 9BD

**Applicant:** Mr. Ashraf Ali

**Respondent:** The Peabody Trust

**Appearances:** Mr. Ashraf Ali -Applicant  
Miss. Samantha Ferree – Chairperson of Tenants Association  
  
Mr. Tony Hymers – Senior Residential Services Executive  
Mrs. Anne McGibbon – Residential Services Executive  
Mr. Chris Murray – Housing Manager

**Dates of Hearing:** 14<sup>th</sup> September 2004

**Date of the Tribunal' s Decision:** 25<sup>th</sup> October 2004

**Tribunal:** Mrs. B. M. Hindley LLB  
Mr. D. D. Banfield FRICS  
Mrs. G. V. Barrett JP

1) This is an application to determine whether various service charges demanded under a lease, commencing 24 June 1988 between the applicant and the respondents, are payable.

2) The Tribunal inspected the subject property on the morning of the hearing and found it to be located on a large Estate of some 650 flats. The Estate consisted of a number of blocks including Bonnington House, comprising 47 flats, serviced by lifts and staircases from communal internal hallways, as well as a number of ground floor flats, of which the subject was one, approached via footpaths through the gardens to their own external front doors. It was apparent that major refurbishment works were in progress.

2) At the pre trial review on 6 July 2004 it had appeared that the applicant was not disputing his liability under the lease to pay the service charges. However, at the hearing he asserted that, in connection with the lifts, this was an issue, together with his contentions that a number of the service charge costs were not reasonable.

3) Since the respondents had been led to believe that liability was not an issue the hearing continued on that basis, but the respondents were given 14 days in which to provide written submissions in support of their opinion that under the terms of his lease the applicant was liable. These were then sent to the applicant who was also given 14 days in which to provide a written response.

4) The respondents obtained Counsel's opinion to the effect that the applicant's lease provides, in the Third Schedule, that the applicant is to pay a proportionate part of repairs, maintenance, improvements and redecorating of the Building and Estate, of which the demised premises (the subject flat) forms a part, as well as being required to pay, as a result of Clause 5, service charges relating specifically to his flat. Accordingly, counsel was satisfied that if the lifts were repaired the applicant was liable to pay a proportion of the costs.

5) The applicant's response to this was that he had been denied a fob key now necessary for accessing the common parts of the building where the lifts were located. He considered that this demonstrated that he did not enjoy the use of the internal facilities or common parts as a whole.

6) The Tribunal accepted the applicant's contention that, because of the particular location of his flat, he did not need to access the common parts of the building. However, they were satisfied that the clear terms of his lease meant that he was liable for service charges in connection with the Building and Estate as a whole, of which his flat formed a part, as well as for charges relating specifically to his flat. The Tribunal understood the applicant's concern at not being provided with a fob key and hoped that the situation would, as suggested by the respondents at the hearing, soon be remedied,

7) At the commencement of the hearing it was established, by the Tribunal from the respondents, that the amounts which the respondents were seeking from the applicant and which he sought to challenge were as follows, albeit those in the final column were, as yet, only budgeted figures:-

SERVICE YEARS	Oct99-31/3/01	1/4/01-31/3/02	1/4/02-31/3/03	1/4/03-31/3/04
Caretaking/cleaning	£204 26p	£168 23p		
Caretaking			£146 02p	£342 56p
Cleaning			£5 90p	£2 90p
Refuse collection				£11 02p
Common parts lighting			£46 30p	£73 54p
Lift servicing/repairs	£198 46p	£107 76p	£100 98p	£150 17p
Entryphone	£40 73p			£9 36p
Repairs and maintenance	£115 71p	£110 27p	£95 33p	£85 22p
Management	£198 54p	£134 34p	£270 03p	£286 54p

8) Mrs McGibbon explained that the respondents had taken over the management of the Estate from the London Borough of Islington in October 1999 and, initially, had made a commitment to maintain the service charges at the same level. She said that, as a result, the figures shown above included an abatement of 35% for the first period and 5% for the second year. The respondents had sought, since the transfer, to improve the accounting procedures they had inherited and they were gradually increasing the accuracy of their coding systems. She suggested that this explained the absence of some costs under some of the headings for the years in question.

#### 9) CARETAKING AND CLEANING

Mr Murray said that a team of some 5 – 7 full time caretakers covered the Estate and provided cleaning of the internal and external common parts during the week with emergency cover available at the weekend. He accepted that there was not unanimous tenant satisfaction with their performance but maintained that the respondents had attempted to respond to tenants' concerns and were constantly seeking higher standards within budgetary limits. He explained that in the early years the proximity of the Estate to King's Cross had caused particular problems with drug users and prostitutes but that regeneration of the area was now easing matters.

10) Mr Ali said that he saw a caretaker only once or twice a week and that they mainly cleaned, with cold water, the internal staircases and the areas immediately outside the lifts. He agreed that drug users had been a problem but alleged that the caretakers did little to remove litter from the grounds and that the tenants did much of the cleaning themselves.

11) The Tribunal was satisfied that the costs were reasonable and, therefore, payable. They accepted that the standard achieved might not be perfection but they considered that the costs were relatively modest and the task of keeping an inner city estate to a high standard was mammoth.

#### 12) REFUSE COLLECTION

Mr Murray said that this item related only to a special collection which was organised on a weekly basis to collect large items such as furniture which was dumped around the Estate. Payment was on a per load basis. The removal of normal household waste was the responsibility of the local authority and the cost was met from Council Tax payments.

13) Mr Ali complained that the refuse bins of the local authority were often overflowing and smelly.

14) The Tribunal was satisfied that the cost of the service provided by the respondents was reasonable and reasonably incurred and, therefore, payable.

#### 15) LIGHTING OF COMMON PARTS

Mr Murray said that this item related to the metered costs of electricity consumed in the internal and external common parts. The caretakers' duties included replacement of the bulbs and the cost of the bulbs was included under that heading.

16) Mr Ali said that often bulbs were not replaced.

17) The Tribunal was satisfied that the metered costs were reasonable and reasonably incurred and, therefore, payable.

#### 18) LIFT SERVICING/REPAIRS

The Tribunal was satisfied that the applicant's lease contained clear liability for this item although at their inspection they had noted the physical separation of his flat from those located in the blocks serviced by lifts. Accordingly, finding the costs to be reasonable and reasonably incurred they are, therefore, payable.

#### 19) ENTRYPHONE

Mr Ali said that he was not connected to the system and this was not contested by the respondents.

20) The Tribunal saw no liability for this item under the terms of the applicant's lease and from their inspection of the subject flat and the Estate they were satisfied that there should be none. Accordingly, they determined that no costs were payable in respect of this item.

#### 21) REPAIRS AND MAINTENANCE

Mr Murray said that these costs referred to day to day reactive repairs and maintenance such as blocked guttering and damaged roofs. The works were executed by a direct labour force of core trades and were costed at scheduled rates.

22) Mr Ali said that a lot of repairs were reported as required but were not effected or were done so badly that it was necessary to redo them within a short time. Also considerable delays were experienced

23) The Tribunal was satisfied that the relatively modest costs were reasonable and therefore payable.

Mr Murray said that the imposition of a 25% of actual expenditure charge for management had been inherited from the London Borough of Islington. Currently consultation was taking place on the adoption of another method and more sophisticated software was enabling costs to be more accurately recorded for the benefit of leaseholders. He added that the Housing Corporation advocated a charge of £285 per unit for social housing.

26) The Tribunal noted that the individuals responsible for the Estate seemed not to be well known to Mr Ali and Ms Ferree, perhaps because of the of many changes within the Leaseholder Team, and also that the percentage cost seemed high when compared with the private sector. However, noting the guidance of the Housing Corporation and the difficulties of an inner city estate to which reference has already been made, they were satisfied that the costs were reasonable and, therefore, payable.

In view of the Tribunal's determination that the applicant is only not liable under the terms of his lease for costs in connection with the entryphone system, and having found all the costs to be reasonable and to have been reasonably incurred, the Tribunal is not minded to grant this application. However, the applicant may, within 14 days of receipt of this decision, provide written representations of his objection to this course of action and no decision is binding until such representations, if any, have been considered.

CHAIRMAN *B. D. H. Waller*

DATE 25/10/04