

DECISION BY THE RESIDENTIAL PROPERTY TRIBUNAL
SERVICE
ON APPLICATION UNDER SECTION 19(2A) OF THE
LANDLORD AND TENANT ACT 1985 (AS AMENDED)

Applicant: Miss Gene Mitchell

Respondent: London Borough of Camden

Re: Flat 24, 9 Chenies Street, London, WC1E 7ET.

Application date: 2nd April 2003

Hearing date: 24th July 2003

Appearances: Mr J Joseph }
 Ms I Botha } Home Ownership Services
 Mr P Bond, Collections Manager
 Ms S Watts, Caretaking Supervisor
For the Applicant

Miss G Mitchell
Miss S Brewster, Flat 13
Mr A Jacques, Friend
For the Respondent

Members of the Residential Property Tribunal Service:

Miss L Tagliavini BA(Hons) DipLaw LLM
Mrs N Dhanani LLB(Hons)
Mr P Roberts DipArch RIBA

Flat 24, 9 Chenies Street
London WC1E 7ET

THE TRIBUNAL'S DECISION AND REASONS

1. This is an application referred to the Leasehold Valuation Tribunal from the Central London County Court by an order of District Judge Price dated 31st March 2003. In this matter the Applicant, the London Borough of Camden seeks a determination as to the reasonableness of the service charges incurred in respect of the caretaking services provided by the Applicant for the service charge year ended 31 March 2002.
2. The Respondent is Miss Mitchell the long lessee of Flat 24. The subject premises is a purpose built block of flats Nos. 1-36 of which the Claimant is the landlord.
3. At issue is whether the charge sought to be levied by the Claimant of £329.85 for caretaking during the relevant period is a reasonable charge?. During the course of the hearing Ms Mitchell conceded that she did not take issue with the cost of the caretaking services but only with the standard of the service provided. Further, Ms Mitchell accepted that some payment was due for the service/period in dispute and had duly paid £165.00 of the £329.85 leaving £164.85 remaining.

THE HEARING

4. At the hearing held on 24th July 2003 the Applicant was represented by Mr Jeffery Joseph of the Home Ownership Unit with Ms I Botha from the same unit in attendance. Oral evidence was heard from Ms Stephanie Watts Caretaking Supervisor of Camden's Holborn District Housing Office and Mr Phillip Bond, Collections Manager. In addition an indexed and paginated bundle was provided to the Tribunal by the Claimant for the hearing.
5. Ms. Mitchell appeared in person and called Ms S Brewster, the lessee of Flat 13 to give evidence. Mr A Jacques a friend of Ms Mitchell was in attendance but did not give evidence.

THE EVIDENCE

6. Ms Watts' evidence was contained in her witness statement dated 17/2/03 and accepted by the Tribunal as her evidence in chief. On questioning by Ms Mitchell and members of the Tribunal Ms Watts amplified on the system of caretaking and cleaning at the subject premises. She stated that 12 hours per week caretaking and cleaning were provided to the subject block. Ms Watts also stated she kept a sheet system of monitoring for the relevant period although she was unable to produce any sheets for the months April, May, June and September 2001 nor was Ms Watts able to offer an explanation for their absence. The monitoring sheets referred to appeared at pages 141-155 of the hearing bundle.

7. Ms Watts stated that during any period the regular caretaker to the subject block was off for sickness or other reason, an alternative caretaker would be assigned to cover. The 'cover' caretaker would carry out the essentials of checking the stairs and lights, sweep and mop the lift and front entrance, put the bins out on collection days and clean the brass door furniture. In addition an estate cleaner was available to Ms Watts for two days a week and would be assigned on an "as needed" basis to one or more of the properties supervised by Ms Watts.
8. Ms Watts stated that according to her records the level of cleaning was satisfactory as had been recorded in the monitoring sheets and that it regularly reached the 75% standard of the target set. Ms Watts stated that despite the absence of the regular caretaker from the subject block during much of the relevant period caretaking had always been provided by the use of cover caretakers. Ms Watts also stated that she had visited the subject block on a daily basis during the relevant period to supervise the caretaking and cleaning but did not have a daily record of her findings during the relevant period.
9. Mr Bond relied on his witness statement dated 17/2/03 as his evidence in chief. Mr Bond's evidence related to the service charge clauses in the lease and the method of calculation of those service charges, issues which became irrelevant to the matter under consideration in light of the concession made by Miss Mitchell as to the reasonableness of the calculation of the cost and her liability to pay.

The Respondent's Evidence

10. Miss Mitchell called Ms Brewster to give evidence and relied upon her statement dated 28th February 2003 as her evidence in chief. Upon questioning by the Applicant and members of the Tribunal Ms Brewster stated that as a resident from 1994 onwards the difference and deterioration in cleaning was marked from March 2001 and coincided with the absence of the former regular caretaker Mr Hexford Lindsey. She stated from about March 2001 until March 2002 the standard of cleaning was inconsistent and at times bad and at others very bad indeed with the very worst period from about March 2001 until November 2001 with lifts and floors not being swept or cleaned. However Ms Brewster accepted that from February 2002 matters had improved considerably and were now satisfactory.

11. In her evidence Miss Mitchell relied upon her previously written statement (undated) made in the course of the County Court proceedings as her evidence in chief together with the numerous letters of complaint written during 2002 to the Applicant about the poor caretaking/cleaning service provided. On being questioned by the Respondent and members of the Tribunal Ms Mitchell stated that on occasion the paladin bins were left out for days at a time including over weekends and on occasion the fire brigade had to be called out due to someone starting a fire in them.

12. Miss Mitchell stated as a long term resident of over 20 years she noticed the marked difference and deterioration in the standard of cleaning over the relevant period with the

absence of Mr Lindsey. She agreed with Ms Brewster that since February 2002 matters had considerably improved and were to be considered satisfactory.

13. Miss Mitchell also relied upon a survey carried out by the Chenies Street Chambers Tenants and Residents Association in June 2002 where residents were canvassed about their level of satisfaction with the cleaning provided over the past two years and produced at pages 51-64 of the hearing bundle. Miss Mitchell asserted that the survey showed that most of the residents who answered were, like her, dissatisfied with the standard of cleaning. Miss Mitchell also referred to a meeting with Camden employees where residents demonstrated the lack of cleaning by cleaning part of the floor and comparing it with the other part said to have been cleaned on a regular basis by the caretaker.

The Tribunal's Decision


14. Having seen and heard the witnesses the Tribunal is of the opinion that the persons best placed to assess the change in cleaning standards are the long term residents who come and go from the block on a daily basis. The Tribunal found Miss Mitchell and her witness to be honest and truthful in their evidence and ready to concede in the Claimant's favour that matters had improved from February 2002 onwards.

15. The Tribunal were not persuaded by the evidence of Ms Watts that for the whole of the relevant period the level of caretaking/cleaning had been up to the expected standards. Most

tellingly was the absence of one quarter of the monthly monitoring records for the relevant year without explanation. Consequently, without a documentary record of the cleaning that was said to have been carried out in just one of her blocks nearly two years ago (March, April, May June and September 2001) the Tribunal were not persuaded that Ms Watts' recollections as to this period were accurate but found the evidence of those persons who had 'lived through' the experience the more persuasive. Further, the Tribunal finds that the fact of the absence of a regular caretaker to the block coinciding with an alleged deterioration of cleaning services to be a persuasive inference that the standard had indeed slipped to below what could be considered reasonable particularly when substantiated with numerous letters of complaint written during the relevant period.

Conclusion

16. In conclusion the Tribunal finds that the standard of caretaking services provided for the service charge year ended 31st March 2002 was not reasonable. Further, the Tribunal considers Miss Mitchell's own assessment of the appropriate cost of the caretaking service that was provided during the relevant period to be reasonable and the Tribunal does not propose to disturb that assessment. Consequently, the Tribunal directs that a charge of £165.00 is a reasonable cost for the caretaking service provided by the Applicant for the service charge year ended 31st March 2002 and remits the case back to the Central London County Court for a final order and costs.

Chairman:.... 

Dated:.... 10 September 2003