

LVT/SC/CR/006/007/03

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON APPLICATIONS UNDER SECTIONS 19(2A) OF THE
LANDLORD AND TENANT ACT 1985 (AS AMENDED)

Applicants: Feldgate Limited

Respondent: Ms M A McKoy

Re: 129B Isledon Road, London, N7 7JP

Application received from Clerkenwell County Court: 6 January 2003

Hearing date: 9 June 2003

Appearances:	Mr J Rottenberg) for Applicants
	Mrs R Neufeld)
	Ms M A McKoy) for Respondent
	Ms S Walters)

Members of the Leasehold Valuation Tribunal:

Miss S J Dowell
Mr P M J Casey MRICS
Mr F L Coffey FRICS

IN THE LEASEHOLD VALUATION TRIBUNAL

SC CR 006 007
LVT/xxx/xx/xxx/xxx/03

B E T W E E N :

FELDGATE LIMITED

Applicant/Landlord

- and -

MARY ANN-MARIE McCOY

Respondent/Tenant

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
In respect of 129B Isledon Road, London N7 7JP

1. The Application

The application to the Leasehold Valuation Tribunal (LVT) was a referral from Clerkenwell County Court to determine the reasonableness of the service charge under section 19(2A)(a) of the Landlord and Tenant Act 1985.

The Landlord and Tenant Act 1985, as amended is hereinafter referred to as "the Act".

- 1.1 On 25th June 2002 the landlord issued a claim against the tenant in Shoreditch County Court for arrears of ground rent, insurance, service charge and management fee for the years 1999, 2000, 2001, 2002 and 2003 totalling £3,987.73.
- 1.2 On 30th July 2002 a Defence and Counter Claim were filed. The tenant stated that the landlord was overcharging for repairs, that the landlord failed to provide documentation in respect of the insurance or any information about the works for which the landlord was charging. The tenant also said that she had made payments which had not been accounted for.
- 1.3 The landlord filed a Reply to Defence and Defence to Counter Claim, both of which are undated.
- 1.4 On 14th August 2002, the claim was transferred to Clerkenwell County Court being the court covering the area in which the tenant lived.
- 1.5 On 26th August 2002, the Claimant filed an allocation questionnaire and requested a one-month stay to attempt to settle the claim.
- 1.6 On 12th September 2002, the Defendant filed a Reply to Claimant's Defence and Response for Defence to the Counter Claim and allocation questionnaire also requesting a one-month stay.

- 1.7 On 1st October 2002, Judge Bowles made an order that the claim be stayed until 29th October 2002 to enable the parties to attempt settlement.
- 1.8 On 15th October 2002, the Claimant wrote to the court stating that no settlement had been reached.
- 1.9 On 11th November 2002, the Defendant wrote to the court stating that no settlement had been reached.
- 1.10 On 19th November 2002, Judge Stary ordered that the case be transferred to the LVT.

2. Summary of statutory provisions relevant to this application

All references are to the Act.

2.1 Section 18 – meaning of “service charge” and “relevant costs”.

2.1.1 The “service charge” means an amount payable by the tenant of a dwelling as part of or in addition to the rent –

- (a) which is payable, directly or indirectly, for services, repairs, maintenance or insurance or the landlord’s costs of management, and
- (b) the whole or part of which varies or may vary according to the relevant costs.

2.1.2 The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

2.1.3 For this purpose –

- (a) “costs” includes overheads, and
- (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

2.2 Section 19 – Limitation of Service Charges: Reasonableness (2A)(a)

A tenant by whom, or a landlord to whom, service charge is alleged to be payable may apply to a leasehold valuation tribunal for a determination –

- (a) whether the costs incurred for services, repairs, maintenance, insurance or management were reasonably incurred.

2.3 Ground Rent

The LVT has no jurisdiction in respect of the claim for ground rent.

3. Service charge provisions in the lease

- 3.1 The lease in respect of the property is dated 30th August 1996 and made between Sureworth Limited (1) and Mary Ann-marie McCoy (2) for a term of 125 years from 25th March 1996.
- 3.2 In 1997 the freehold of 129 Isledon Road was transferred to the Applicant.
- 3.3 The insurance provisions are to be found at clause 1(a) on page 4 of the lease. The tenant is required to pay by way of additional rent the due proportion of such sum or sums as the landlord shall pay for keeping the building insured against fire public liability and such other risks as the landlord shall deem necessary or expedient such additional rent to be paid on demand and to be recoverable by distress or otherwise as rent in arrears. The landlord's obligations are set out at clause 3(a)(i) of the lease.
- 3.4 The service charge and management fee provisions are to be found in clause 2 of the lease. The service charge year runs from 25th March to 24th March. The tenant's share of the service charge costs is 35%. Service charges are for "the service obligations" which means the obligations to provide services (if any) and other things undertaken hereinunder (clause 1(i) of the preamble).
- 3.5 The provisions in respect of the lessor's repairing covenants are to be found at clause 3(b) of the lease.

4. Pre Trial Review/Directions

On 27th February 2003 the LVT gave directions at a pre trial review. Mr. Rottenberg and Mrs. Neufeld appeared on behalf of the Applicant and the Respondent appeared in person.

The following directions were given:

- 4.1 The Respondent on or before 13th March 2003 to serve and lodge a statement giving full details of all matters in dispute relevant to the determination of the reasonableness of service charges under section 19(2A) and/or (2B) of the Act. This document to be regarded as the Respondent's case.
- 4.2 The Applicant on or before 27th March 2003 to serve and lodge a statement in reply to the Respondent's statement together with copies of any documents which may be relevant to the issues in dispute. This to be regarded as the Applicant's case.
- 4.3 The Respondent to prepare a short statement in reply identifying those matters which remain in dispute. The statement to be lodged with the Tribunal and served on the Applicant together with copies of any documents in her possession which may be relevant to the issues on or before 10th April 2003.
- 4.4 The parties to try to agree a single bundle of documents and the Applicant to send two copies to the Respondent and four copies to the Tribunal not less than fourteen days before the date fixed for the hearing. Provision was made for the contents of the bundle.

4.5 The application to be heard on the first available date after 5th May 2003.

5. Preliminaries

5.1 The order of Judge Stary made in the Clerkenwell County Court on 19th November 2002 was that "the case be transferred to the Leasehold Valuation Tribunal". The LVT has no jurisdiction over ground rent disputes and is not able to deal with that aspect of the claim.

5.2 The claims for insurance were:

- 5.2.1 £236.25 up to 28th September 1999
- 5.2.2 £248.06 up to 28th September 2000
- 5.2.3 £248.06 up to 28th September 2001
- 5.2.4 £264.51 up to 28th September 2002
- 5.2.5 £140.00 up to 28th September 2003

5.3 The amounts claimed for service charges were:

- 5.3.1 £ 379.32 up to 24th March 1999
- 5.3.2 £1,379.08 up to 24th March 2000
- 5.3.3 £ 209.57 up to 24th March 2001
- 5.3.4 £ 525.92 up to 24th March 2002
- 5.3.5 £ 454.12 up to 24th March 2003

5.4 The amounts claimed for management were:

- 5.4.1 £100.00 up to September 1998
- 5.4.2 £100.00 up to September 1999
- 5.4.3 £100.00 up to September 2000
- 5.4.4 £192.50 up to September 2001
- 5.4.5 £376.72 up to September 2002
- 5.4.6 £ 61.69 up to September 2003

6. Inspection

6.1 The Tribunal did not carry out an inspection of the premises. The property was described as a Victorian four-storey property with a basement and three floors above.

6.2 It is divided into three self-contained flats let on long leases:
Basement, Flat A having exclusive use of the back garden. Service charge percentage - 35%.
Ground and first floor, Flat B. Service charge percentage - 35%.
Second floor, Flat C. Service charge percentage - 30%.

6.3 The Tribunal did not see the leases for Flats A and C. The Tribunal was told that the leases were on the same terms, save for the percentages and the fact that the basement flat did not have to contribute to repairs and decorations for the hall and entrance of the building as the basement flat had no benefit from this. Flats B and C were liable for 50% each of the cost of these works. The Tribunal was told that there was a

common entrance hall and staircase and steps up to the main front door being the entrance for Flats B and C and that the basement flat had its own entrance.

7. The Hearing

- 7.1 The hearing took place for a full day on 9th June 2003. The landlord was represented by Mr. Rottenberg, secretary of the landlord's company. Mrs. R. Neufeld was also in attendance. The tenant was represented by Miss S. Walters and the tenant was also in attendance.
- 7.2 At the hearing the Tribunal was provided with an agreed bundle of documents.
- 7.3 At the beginning of the hearing the extent of the Tribunal's jurisdiction was established. The tenant's liability to pay service charges is contained in clause 2(f) of the lease. The service charge year runs from 25th March to 24th March. The tenant is required to pay an estimated contribution by two instalments on 25th March and 29th September. Any excess due when the actual amount of the costs, expenses and outgoings for the year have been ascertained is payable on demand whilst any under spend is credited to the lessee's account. In addition the tenant is required to pay on demand the due proportion of any unforeseen costs incurred or to be incurred by the landlord in accordance with the landlord's service obligations which have not been estimated and included in the two instalments.
- 7.4 It was agreed between the parties that at one time the tenant by arrangement was meeting her obligations by monthly payments allocated by the landlord against various elements of demand. By the time the case came to the hearing before the Tribunal, the landlord and tenant had agreed that regardless of whether the county court claim had originated with interim demands or end of year demands the matter should be heard on the basis of the summaries of actual service charge expenditure for each of the years in question. The landlord had set out at page 14 of the bundle the amounts claimed from the tenant for the years ended March 2000, March 2001, March 2002 and March 2003.
- 7.5 These amounts were as follows:
- 7.5.1 Year ended 24th March 2000 – insurance £248.06, LEB £20.51, cleaning £108.57, management fee £100.00, insurance excess balance £620.92. Total £1,098.06.
- 7.5.2 Year ended 24th March 2001 - insurance £248.06, LEB £29.03, repairs £180.54, management fee £192.00. Total £457.63.
- 7.5.3 Year ended 24th March 2002 - insurance £248.06, LEB £29.11, general management £195.34, additional management for insurance claim £350.00, legal fees £146.81. Total £969.32.
- 7.5.4 Year ended 24th March 2003 - insurance £291.88, LEB £29.96, legal fees £108.50, management fee £257.03. Total £687.37.

This summary set out the sums claimed by the landlord against the tenant. However the Tribunal's jurisdiction is in respect of the total sum for service charges, insurance and management charged by the landlord for the whole property.

- 7.6 The landlord told the Tribunal that the various payments made by the tenant were such that no amounts in respect of insurance, service charge and management fees remained outstanding up to and including 24th March 1999. The tenant whilst unsure of how the payments had been allocated to the different amounts due accepted this position. As it was common ground that no sums remained outstanding for the years up to and including 24th March 1999 the Tribunal has no jurisdiction to consider the amounts charged in those years (*Daejan Properties Limited -v- London Leasehold Valuation Tribunal* (2001) EWCA Civ 1095)

- 7.7 In the circumstances the Tribunal's jurisdiction was limited to section 19(2A)(a) in respect of the four years in question and the Chairman read out this section of the Act.

8. Insurance

- 8.1 The sums claimed for insurance by the landlord are set out at 7.5 above.

8.2 Evidence and submissions

8.2.1 Mr. Rottenberg explained that 129 Isledon Road was insured on a block policy with other properties. He said the renewal date was the beginning of September each year. He explained that the amount of the premium was £708.75 to September 2000, £755.75 to September 2001, £755.75 to September 2002 and £833.96 to September 2003. Mr. Rottenberg produced in the trial bundle, and in the course of the hearing, evidence that the property was insured through brokers with an insurer of repute, being Norwich Union. The sum insured was £225,000 and there had apparently been no difficulty in respect of the level of cover in claiming for subsidence in 1999. The policy had an excess provision in respect of subsidence of £2,500. Mr. Rottenberg assured us that the landlord did not receive any commission from the broker or the insurers. He said he had not instructed the brokers to seek other insurances, as he was concerned that given the claims history on the property it might prove difficult to effect alternative insurance. He said his policy was only to review the sum insured when he was asked to do so by the insurer and so far this had not happened since Feldgate Limited had taken over the property.

8.2.2 Miss Walters said that she did not feel able to comment on the adequacy of the sum insured nor to question the premium payable. Her main concern was the difficulty that the tenant had experienced in obtaining information from the managing agent as to what the policy covered. She pointed out that the copy of the policy had only been produced in the trial bundle.

8.3 Decision

The Tribunal determined that given the age and location of the property the premium payable was reasonable for each of the years in question i.e. £708.75 for the year

ending 31st August 2000, £755.75 for the year ending 31st August 2001, £755.75 for the year ending 31st August 2002, and £833.96 for the year ending 31st August 2003.

9. Electricity Charges

A claim had been made by the landlord for electricity charges for the four years in question. The tenant said at the hearing that these amounts were not challenged and that there was no dispute about the amounts demanded by the landlord and paid to the London Electricity Board for lighting in the communal parts.

10. Service Charge Year March 1999 to March 2000

10.1 Cleaning

The amount claimed for the whole property is £310.20. The tenant's share being £108.57.

10.1.1 Evidence and submissions

Mr. Rottenberg said that cleaning was carried out at the request of the tenants. He said it was a firm which he used elsewhere and he had not received any other complaints and he considered it to be a reputable company.

Miss Walters said that the tenant challenged both the cost and the quality of the cleaning. She said that the cleaners were unreliable and did not come to the property regularly and that the property was dirty even though the tenant was expected to pay for cleaning. This was the reason that the tenants had asked for the cleaning to be stopped and the tenants to Flats B and C had agreed to do the cleaning themselves.

10.1.2 Decision

The Tribunal were unable to make a judgement about the quality of the cleaning because it had stopped during the service charge year in question. The Tribunal saw no invoices after 31st January 2000 and the evidence showed that the amount actually expended on cleaning up to 24th March 2000 was £274.37 inclusive of VAT. The tenant's obligation was to pay 35% of this being £96.03. The Tribunal determined that the costs of cleaning of £274.37 including VAT for the service charge year March 1999 to March 2000 was reasonably incurred.

10.2 Management Fees

The amount in dispute to be paid by the tenant was £100 being £300 for the whole building.

10.2.1 Evidence and submissions

Mr. Rottenberg explained that the property had been owned since September 1997 by Feldgate Limited. Feldgate Property Management is a separate department in the company and it specialised in property management and acted as managing agents. Mr. Rottenberg told us that he was the company secretary of Feldgate Limited but he was not a director. He said that Feldgate

Property Management (FPM) also managed property on behalf of various non Feldgate clients. He said there was no contract with Feldgate but it operated on the same terms as the contracts with other landlords. These contracts followed the recommendations of RICS service charge residential management code which they sought to follow in their role as managing agent. He said their management fee was £100 per unit per annum giving a total of £300 for the building per annum.

Miss Walters said this was an excessive sum. She said the management service was poor and it was impossible to get proper replies to enquiries from the managing agents.

10.2.2 Decision

The Tribunal considered that this property required minimal management involvement, simply payment of electricity bills and cleaners and the collection of rents including insurance and service charges. The insurance was placed through a broker. Mr. Rottenberg had said that he did not inspect and that he would send out an independent surveyor if a problem was reported. The charge for this would be reflected in the service charge although it did appear that Mr. Rottenberg arranged for minor repairs when necessary. The Tribunal however recognised that it is extremely difficult to find managing agents to undertake even such minimal tasks for less than £100 per unit given the cost of establishing and maintaining records. The Tribunal determined that the sum of £300 incurred by the landlord for management fees during this service charge year was reasonably incurred.

10.3 Insurance Excess Balance

The amount claimed by the landlord against the tenant was £620.92 the total sum for the building being £1,774.06.

10.3.1 Evidence and submissions

The landlord explained that following the purchase of the property the landlord became aware of a structural problem involving the external staircases leading to the basement and upper parts of the property at raised ground floor level and also the retaining wall enclosing the light well at basement level. In September 1998 the landlord made a claim against the insurance policy.

The policy had an excess provision of £2,500. By an invoice dated 28th July 1999 the landlord sought from the tenant the sum of £1,250 in respect of her contribution towards the excess sum. The landlord subsequently conceded that he had misinterpreted the lease by seeking a 50% contribution instead of a 35% contribution.

An earlier invoice dated 2nd February 1999 had sought from the tenant the sum of £102.81 as her share of £293.75 apparently in relation to structural engineer's fees on the basis that these would fall to be paid from the excess.

DMC Structural Engineers acted as contract administrator having previously been engaged in pre contract investigations and reports. The work had taken

place in 2001/2. On 18th February 2002 the loss adjusters recommended a payment of £16,613.52 as an interim payment. This sum was to be paid to DMC. The basis on which payment was recommended is to be found at page 48 of the bundle which is the letter from Capita McLarens dated 18th February 2002 to DMC. The letter sets out the consultants and contractors to be paid making a total of £19,113.52 and deducts the excess of £2,500 leaving a balance of £16,613.52.

The Tribunal heard that at some point after this DMC either withdrew from the contract administration or their services were dispensed with and the landlord asked the insurers to make any further payment of sums due direct to them. They did not pay the excess amount to DMC and because of a dispute over payability of a contractor's final invoice the landlords explained that they had since August 2002 retained sums paid to them by the insurer exceeding the amount of the policy excess.

Miss Walters said that the tenant was not sure about the quality of the work. She said that the wall did not appear to have been rebuilt and the steps were not straightened. She said it appeared that the cracks had simply been covered. She was concerned that the tenant had been billed £1,250 and the figure had now been altered. She said that she considered the figure of £620.92 reasonable if it had been incurred by the landlord but she had not been informed about the dispute with Underpin and Makegood which meant that currently the excess costs had not been incurred by the landlord.

10.3.2 Decision

The Tribunal was satisfied that the work done would not have been passed by a firm of structural engineers nor paid for by the insurance company if it had not been carried out to specification. The Tribunal was not clear of the basis on which the invoices for additional insurance payments had been served on the tenant but concluded it was under clause 2(f)(iii) of the lease. The question for the Tribunal is was it reasonable in July 1999 to demand that the lessees pay the excess amount which potentially would at some stage in the future be incurred by the landlord. In the opinion of the Tribunal it was not reasonable to do so at that time though clearly if the landlord has to find this sum in the future it would be proper to recover it through the service charge. However in view of the fact that the landlord currently is holding money in his client account greater than the amount of the insurance excess and has not had to make payments out of the insurance excess then this cost cannot be said to have been incurred nor was it likely to be incurred until the work started which was not until late 2001. The Tribunal determines that the amount owed by the Respondent for the year ending 24th March 2000 for excess insurance is nil. The amount claimed by the landlord has not therefore been reasonably incurred.

11. **Service Charge Year March 2000 to March 2001**

11.1 Repairs

The landlord gave evidence about the works which were carried out during this service charge year and had provided the invoices. The tenant having had an opportunity to hear the evidence and consider the invoices informed the Tribunal that the sum of £130.54 charged for repairs in this service charge year were not challenged.

11.2 Management Fee

In this service charge year the total service charge was £550 and the tenant was charged £192.

11.2.1 Evidence and submissions

Mr Rottenberg explained that the general management fee continued at the rate of £100 per flat. However the managing agents sought an additional sum of £250 in respect of their work in dealing with the insurance claim in respect of subsidence. Mr Rottenberg explained that following the purchase of the freehold by Feldgate there had been a transfer of the property from the vendors block policy to Feldgate's block policy. However there had been considerable difficulty in persuading Feldgate's insurers to accept this property and to accept liability when the insurance claim was made. This had caused a vast amount of work. Mr Rottenberg took the Tribunal to pages 166-168 inclusive of the bundle which set out a list of work in which the managing agents had been involved since October 1997.

Miss Walters said that the lessees considered that very little or no work had been done in addition to the standard management services and that the tenant considered the additional charge to be excessive and unwarranted.

11.2.2 Decision

The Tribunal concluded that in this service charge year very little additional work of any consequence seems to have been carried out by the managing agents and that there appears to be significant amounts of hindsight being employed by the agents in invoicing the landlord for additional management fees during this year. However the Tribunal accepts that the managing agents' involvement in the insurance claim was outside the scope of the "menu" of standard services covered by the management fee and that any work they had undertaken justified an additional fee. In the Tribunal's view an additional fee should have been agreed at the outset to cover the totality of the claim handling. Although this was not done as only £250 for the whole property has been sought for 2000/1 the Tribunal determines that this has been reasonably incurred in addition to the standard fee of £300. For this service charge year the Tribunal determines that a reasonable management fee is £550 and accordingly the tenant is liable to pay a management fee of £192.

12. **Service Charge Year March 2001 to March 2002**

12.1 General Management

The landlord's claim against the tenant is £195.34.

12.1.1 Evidence and submissions

Mr Rottenberg explained that the managing agents' standard fee of £100 per unit continued to be charged for this year but at the end of December 2000 the managing agents had registered for VAT and this had featured on their bills for the first time. In addition the landlord sought to charge for a meeting he had had with the tenant at the beginning of May 2000 which he claimed lasted two hours and he sought to charge £55 per hour.

Miss Walters disputed that the meeting had lasted so long and claimed that the tenant had been advised by LEASE that there should be no charge for such a meeting. Miss Walters said the tenant had also been told this by the managing agent prior to the meeting.

12.1.2 Decision

The Tribunal considered it was unreasonable for the managing agents to have sought to make a charge for such a meeting with the tenant and that this should be covered by the standard fee as part of the services covered. The tenant should therefore only be liable for the general management fee of £100 plus VAT being a total of £117.50. The Tribunal determines that the fee of £300 plus VAT for the property for this service charge year is reasonable.

12.2 Additional Management Fee

The landlord's claim against the tenant is £350.

12.2.1 Evidence and submissions

Mr Rottenberg explained that an additional management fee had been charged to each of the tenants because of the work connected with the insurance claim described above.

Miss Walters said that it was not reasonable that the tenant should have to pay this additional sum.

12.2.2 Decision

The Tribunal decided that a total of £500 was a proper fee for the managing agent to charge for its involvement in the insurance claim as clearly there had been additional work involved. As the managing agent had now registered for VAT, such should be added to this fee. The Tribunal determines that a reasonable additional management fee for the work in connection with the insurance claim during this service charge year would be £250 plus VAT, being a total of £293.75. The tenant's share of this would be £102.73.

12.3 Legal Fees

The claim against the tenant is £146.81.

12.3.1 Evidence and submissions

Mr Rottenberg explained that this fee was to cover the fees of Bernard Oberman & Co, who advised on recoverability of outstanding service charges. The invoice is at page 108 of the bundle. The total fee is £419.47. Mr

Rottenberg sought to rely on the provision in clause 2(f)(iii) in the lease being the landlord's right to recover unforeseen costs.

The tenant said that she challenged the whole of the amount claimed for legal fees.

12.3.2 Decision

The Tribunal concluded there was no specific provision in the lease for recovery of legal expenses through the service charge, only for recovery of such costs against an individual in respect of section 146 or 147 proceedings. In the opinion of the Tribunal the landlord cannot recover solicitors or other legal costs through the service charge in the absence of an express provision in the lease (*Sella House Limited -v- Mears*).⁴ In those circumstances the Respondent has no debt to the service charge in respect of this heading of the claim.

*(1989 1 EGLR 65, CA)

13. **Service Charge Year March 2002 to March 2003**

13.1 Legal Fees

The landlord's claim against the tenant is £146.81.

13.1.1 Evidence and submissions

Mr Rottenberg explained that the legal fees were set out on page 115 of the bundle and in fact referred to court fees. He said it was necessary to issue proceedings in the county court against Miss McCoy and also the tenant of Flat A.

This latter case had subsequently been settled. He said the landlord had no alternative but to issue court proceedings if tenants did not pay ground rent and service charge.

Miss Walters said that the tenant opposed the legal fees and said that she should not have been placed in this position. The only reason that she had not paid the sums claimed was because they were not reasonably claimed and she could not get an explanation or documentation which had been requested from the managing agents.

13.1.2 Decision

The Tribunal determined that the court fees were not recoverable under the service charge, though they might be recoverable within the county court proceedings. The Tribunal determined that the claim for legal fees in this service charge year was not reasonable and should be struck out.

13.2 Management Fee

from the Tenant

The landlord has claimed a management fee of £257.03 in this service charge year.

13.2.1 Evidence and submissions

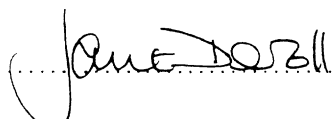
Mr Rottenberg explained that the usual standard management fee of £300 plus VAT for the property was charged in this year. The additional sum of £381.86 was set out at page 114 of the bundle. These charges were court fees £115 plus VAT, preparing Particulars of Claim £125 plus VAT, claim form £85 plus VAT. He had himself prepared particulars of claim and completed the claim form without taking and paying for further legal advice.

Miss Walters challenged these fees on the same grounds as the legal fees in this financial year were challenged.

13.2.2 Decision

The Tribunal considered that it was reasonable for the landlord to pursue a claim through the small claims procedure where ground rent and service charges had not been paid. This procedure was in the interests of all lessees and there was no reason why it should not be added on to the service charge. In those circumstances the Tribunal allowed in principle the claim for preparation of Particulars of Claim and claim form but considered that two hours was sufficient for this work. As the managing agents had told the Tribunal they charged at the rate of £55 per hour this would total £110 plus VAT. The Tribunal did not consider that the court fee should be recovered through the service charge as this was recoverable in the court proceedings. It was conceded by the landlord that the court fee was not in any event subject to VAT.

The Tribunal determined that a management fee of £410 plus VAT of £71.75 being a total of £481.75 was reasonable for this service charge year. The tenant's contribution would be £168.61.



Jane Dowell

Chairman

Dated the 28 day of July 2003