

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

**LANDLORD & TENANT ACT 1985, SECTION 27A
LANDLORD & TENANT ACT 1987 SECTION 24**

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

Case Nos:	CHI/00ML/LAM/2004/0002 & CHI/00ML/LSC/2003/0003
Property:	15 Clifton Street, Brighton, East Sussex
Applicant:	Ms W.Oxlade
Respondent:	Swan Lane Estates Limited
Date of Hearing :	23rd April 2004
Members of the Tribunal:	Mr J.B. Tarling MCMI (Chairman) Mr B.H. R. Simms FRICS MCIArb Mr T.W. Sennett MA MCIEH
Date decision issued:	

Re: Flat 3, 15 Clifton Street, Brighton

1. The Applications

There were Three Applications before the Tribunal:

- a. Under Section 27A of the Landlord & Tenant Act 1985 to determine the liability to pay Service Charges**
- b. Under Section 24 of the Landlord & Tenant Act 1987 for the appointment of a manager**
- c. Under Section 20C of the Landlord & Tenant Act 1985 for an order limiting the landlords costs of the proceedings**

2. The Parties

The Applicant was Ms W. Oxlade who was a Lessee of Flat 3, 15 Clifton Street, Brighton. The Respondent was the owner of the Freehold, Swan Lane Estates Limited. Their Managing Agents were DGA Residential Managing Agents and Surveyors.

3. The previous Proceedings

There had been an extensive history of litigation between the landlord and tenant in respect of this property over many years. The tenant had made three previous applications to the Tribunal being case numbers L9-11/98/ES, L60/02/ES and L6/02/ES. In addition there had been proceedings in the Brighton County Court under Claim No. BN505621.

4. The tenant had supplied the Tribunal with a bundle of papers in support of her Applications. These papers were difficult to read as they were written over with copious notes. Some of the pages were missing or incomplete in some of the documents.

5. Inspection

The Tribunal members inspected the property on the morning of the Hearing, namely on 23rd April 2004. The property was a three-storey terraced house on rising ground near Brighton Station. The front elevation had been recently redecorated. An attempt was made to gain

access to the interior of the property but for reasons which will become apparent later in this decision, the Tribunal were unable to obtain access.

6. Hearing

A Hearing was held at the Appeals Service, Dyke Road, Hove on the morning on 23rd April 2004. The tenant Ms Oxlade attended but no-one from the Landlord or their Managing Agents attended. A few weeks before the hearing the tenant had sent to the tribunal a written communication dated February 2004 in which she wrote:

“I’ve paid service charges until March 26th 2004” and
“I sold my Flat January 9th 2004”

In view of these statements the Tribunal decided to deal with the question of its jurisdiction before considering the tenants Applications in detail.

7. Jurisdiction

The Chairman went through the document referred to above in which the tenant had said she had paid the service charges and had sold her flat. Ms Oxlade agreed that both these statements were true. The Chairman explained that the liability to pay a service charge almost always ran with ownership of the Lease, unless there were other arrangements made between Seller and Buyer and landlord. She was asked on a number of occasions to explain why she thought she remained liable for service charges. She confirmed that she had instructed a Solicitor to act for her in the sale and she had been forced to pay the service charges outstanding otherwise she would have been unable to complete the sale. There had been no special arrangements made with her Buyer for her to retain liability for the service charges.

In respect of the Appointment of Manager Application it was pointed out to her that now that she was no longer a tenant, she no longer had any status as a tenant and was unable to proceed with that Application. It was pointed out that the wording of Section 21 of the Landlord and Tenant Act 1987 open with the words “The tenant of a flat...may...apply to a Tribunal for an Order under section 24 appointing a Manager..” It was clear she was no longer a tenant and hence she no longer had any right to make the Application.

In respect of the Application under Section 20C of the 1985 Act, such applications can only be made by tenants.

- 8. Ms Oxlade was given an opportunity to make representations to the Tribunal to say why she considered she had power to make the applications, but her comments were restricted to how badly she had been treated by everyone. She was unable to give the tribunal any cogent reason why she maintained that the Tribunal had jurisdiction to proceed with the hearing of her Applications.**

The Landlord was not present nor represented.

- 9. The Tribunal then retired to consider the matter of jurisdiction. In view of Ms Oxlade’s confirmation that she had paid the service charges and had completed the sale of her flat it seemed without doubt that she was no longer a tenant and had no status in the proceedings to continue with her Applications. She had produced no valid argument to support her contention that she was entitled to proceed. In the circumstances the Tribunal had little difficulty in deciding that it did not have jurisdiction to deal with the Applications for the reasons given above.**

10. When the Tribunal reconvened it was discovered that although Ms Oxlade had been asked to wait, she had left the Building, so they were unable to announce their decision to her personally.

Dated this 29th day of April 2004



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J.B. Tarling MCM
Chairman