

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE**

LEASEHOLD VALUATION TRIBUNAL FOR THE EASTERN RENT ASSESSMENT  
COMMITTEE

CAM/26UE/LSL/2004/00002

Landlord and Tenant Act 1985 (as amended) sections 27A and 20C

Re: 43 Hogarth Court Steeplands Bushey, Watford WD23 1BT

Parties:

Applicant- Mr H A Webb

Respondent- Hogarth Court Limited

Representation at hearing

Applicant in person

Respondent – Mr K Gathani and Mr R King Directors of Hogarth Court Ltd  
Mr G Silver FRICS Lancaster Brown (Managing Agents)

Application date 1<sup>st</sup> March 2004

Hearing date 8<sup>th</sup> June 2004

Committee            Mr A A Dutton Chair  
                             Mr F W J James FRICS  
                             Miss M Krisko BSc (Est Man) FRICS

Decision dated 11<sup>th</sup> June 2004

## **Decision of the Committee**

### **Preliminary**

1. The Application by Mr Webb pursuant to section 27A of the Landlord and Tenant Act 1985 (as amended) sought to challenge the method by which the Respondent had apportioned the annual service charge between the residents of Hogarth Court and the impact that this had on his contribution, which he submitted had been increased. The Application appeared to deal with years going back to 1994.

2 It was common ground between the parties that the Landlord had not apportioned the service charge in accordance with the leases. Mr Webb's lease provided for the block and estate expenses (as defined in the lease) to be calculated by reference to a percentage figure (14.54% for the block and 1.852% for the estate). Infact the Landlord had been apportioning same purely on the basis of one and two bedroomed accommodation.

3. Mr Webb helpfully agreed that the service charge years to be reviewed could be confined to the years ending March 2003 and March 2004 and agreed to withdraw any claims for earlier years. It should be noted that the lease provided for the service charge year to be January to December although it did make provision for the Landlord to change this if required and it was agreed that the year ending should be 31<sup>st</sup> March.

4. The Landlords agreed that they would undertake to revisit the service charges for the year ending 31<sup>st</sup> March 2003 and to apportion Mr Webb's contribution in accordance with his lease and the percentages set out therein.

They also undertook to ensure that the lease apportionments for the block and the estate would be used for the year ending 31<sup>st</sup> March 2004 and that they would instruct their auditors, with whom the accounting papers were presently residing, to prepare that year's accounts on that basis and to continue to do so for future years. In fact this is something they have already agreed to do for 31<sup>st</sup> March 2005 onwards.

### **Decision**

5. Before we record the agreement reached we would like to thank Mr Webb and the Landlords representatives for the sensible and pragmatic approach they adopted at the hearing. We hope that matters having now been aired and agreed that these problems can be put behind all concerned. We were impressed with the standard of upkeep of those elements of the development we were able to see. The blocks by and large appeared to be in good order, although the standard to the common parts in the blocks we inspected varied they were presentable and clean and the grounds were well kept and pleasant.

6 As we have indicated above the parties were, by and large as one. We confirm that the Landlord is ordered within 28 days to prepare the accounts for the year ending 31<sup>st</sup> March 2003 in accordance with the leases of the estate, which according to the lease of Mr Webb's property should be in substantially the same form. This should not be a difficult exercise. The costs will need to be appropriated to the relevant block and the charges paid by the occupiers of those blocks apportioned in accordance with the lease. In so far as the estate charges are concerned we accept that there appears to be 56 units, not 54 as provided for in the lease. We were not asked to vary the lease to reflect this change. It is hoped that agreement can be reached between the residents to deal with this as we fear that the costs of varying the leases may be out of

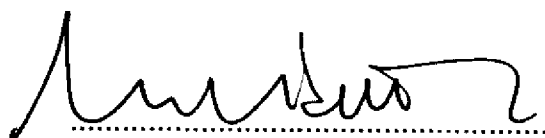
proportion. However, that is a matter for the parties and if necessary, another Tribunal.

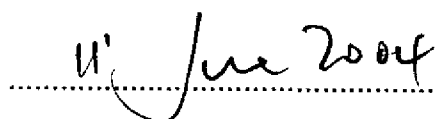
7. Further, we order that the Landlord shall prepare the accounts for the year ending 31<sup>st</sup> March 2004 and each year thereafter on the same basis as the accounts referred to at paragraph 6 above, that is by reference to the lease.

8. We order that if any funds are found to be due and owing to Mr Webb those shall be credited to his future liability for service charge payments and allowance made in respect of future monies due, rather than a monetary repayment. Mr Webb agreed this and it is hoped that it would avoid any impact on cash flow, although it is unlikely that the figure will be great.

9. Mr Webb applied under section 20C of the Act for an order preventing the Landlord from adding the costs of these proceedings to the service charge. We make such an order as Mr Webb has been vindicated in his action.

10. It is hoped that the parties will be able to agree the figures but if not they can refer the matter back to the Committee if they wish but only in so far as it relates to the final account figures and the apportionment of same.

.....Chair

.....Date