



S O L I C I T O R S

Miss Noelle Rawe

See my
21 Sep 03
Reply

19 September 2003

Our ref: LM.R360/1

Ext. 229

Your ref:

Also By Fax No.

Dear Noelle

Section 20C Application in the Leasehold Valuation Tribunal

I write this letter further to our earlier telephone conversation and your fax of today's date. I wish to clarify the position as I see it (and you will appreciate I think that I may not have all the relevant LVT documents).

You have issued an application pursuant to Section 20C of the Landlord & Tenant Act 1987 seeking an order from the Leasehold Valuation Tribunal that the costs incurred by the Landlord in those proceedings should not be taken into account in determining the amount of any service charge payable by you. That application is your application alone. You are not joined in that application by any other lessee of Jefferson House and on that basis the determination of the application will apply to you and you alone. Your concern as I understand it is that in the event that the Tribunal make an order that the Landlord be prevented from seeking to recover from you your proportion of the costs incurred in the LVT then the other lessees may bring a claim against you on the basis that you were the only lessee that resisted the LVT proceedings.

Now she remembers!

The second point is that I recall that on the last day of the LVT hearing it was said, on behalf of Steele Services, that they would not seek to recover from you any portion of costs in respect of the LVT proceedings. Dealing with that point, if Martin Russell Jones confirm that they will not seek to recover from you any portion of the costs incurred in the LVT proceedings then there will be no point in you proceeding with your application for an order seeking just that. Were I the representative for the Landlord armed with that knowledge, I would seek costs against you on an indemnity basis. A copy of the revised letter sent to Martin Russell Jones is enclosed and I can confirm that, as at the time of dictating I have yet to hear from them. My advice, once again, would be that if Martin Russell confirm they will not seek to recover your proportion of the costs incurred in the LVT against you, then your application should be withdrawn and in fact I can see no basis upon which you could continue with your application.

Compare that with her 23 June 03 letter to my then solicitors, Oliver Fisher

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④ I appreciate that in the event that Steele Services do not seek to recover from you but do seek to make a recovery from the other lessees, then the other lessees may well feel that they are having to pay substantial costs due to your insistence in defending the proceedings in the LVT. In any event, most of the lessees have benefited from the LVT determination as a result of the initial service charge demand being reduced, by as much as £4,000 in some cases. When the next demand is sent out, if it were to include a large amount in respect of the costs incurred in bringing an application in the LVT, as it was the Landlord's application then any lessee who feels that they should not be responsible for those costs is of course at liberty to bring their own application under Section 20C of the Act. However, looking at your lease Clause 2 states

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⑤ "the Lessee hereby covenants with the Lessor and as a separate covenant with and for the benefit of the Lessee or occupiers of the other flats in the building

- (1) to pay the rent first herein reserved at the times and manner aforesaid without any deduction
- (2)(a) that the Lessor without any deduction and (payable and recoverable as rent) every financial year of the Lessor an annual service charge"

What has the ground rent got to do with this?

⑥ By that clause you are agreeing with the other Lessees to pay the rent, however it must be right that you should only pay those costs if they are reasonable and clearly as the LVT determination has proved, at least some of those charges were not reasonable which resulted in a substantial reduction, not only for you but for the other Lessees. Clause 2 is referred to in the Lease and is appended to the Particulars of Claim initially issued by Martin Russell Jones.

⑦ It may well be that the other lessees would have a better prospect of success on any future Section 20C application on the basis that they did not oppose the LVT proceedings.

what?

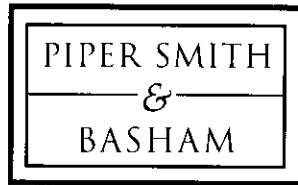
⑧ In any event, the current application is on your behalf alone and the determination should affect you alone.

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⑨ I have not yet dealt with the County Court proceedings, the exchange of List of Documents, but I will speak to CKFT today and endeavour to get our List in this evenings post.

⑩ I have just received a telephone call from Martin Russell Jones where they say that a letter is on its way to me confirming that they, Steele Services, will pay your proportion of the costs incurred in the LVT. On that basis, we have, I think no option but to withdraw our

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application. As soon I receive that letter, I will let you have a copy before forwarding any reply.

Yours sincerely


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