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**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **MAN/00CJ/LAC/2013/0010**

Property : **20 Sovereign Court, Jesmond Road
Newcastle, NE2 1JZ**

Applicant : **Daniel & Susan Goldwater**

Respondent : **Proxima GR Properties Limited represented
by Estate And Management Limited**

**Type of
Application** : **Commonhold & Leasehold Reform Act 2002 –
Schedule 11 Paragraph 5
Landlord & Tenant Act 1985 – Section 20C**

Tribunal Members : **N Ali
L Bennett**

Date of Decision : **15 October 2013**

DECISION

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Background

1. The Applicant is the leaseholder of the Property. The Respondent is the freeholder .
2. The Property is held under a lease dated 29th March 2000 with Barratt Homes Limited of the first part and the Applicant of the second part.
3. The Applicant intend to underlet the Property and under the terms of the lease, 5th Schedule Part 1 Clause 35 (a) & (b) permits this subject to the type of tenancy and written notification being given to the Landlord and the payment of a reasonable fee.
4. The Applicant states that the demanded fee of £105 plus VAT is unreasonable and on the 22nd July 2013 made an application for the determination as to the liability to pay and the reasonableness of an administration charge and an order under Section 20C of the Landlord and Tenant Act preventing the Respondent from seeking to recover the cost of proceedings from a service charge.
5. The Respondent states that the notice fee for Registration is not a variable Administration charge as defined under Schedule 11 of the Commonhold and Leasehold Reform Act 2002 (the 'Act') and so falls outside the jurisdiction of the Tribunal.
6. The Tribunal issued directions on 05 August 2013 which were complied with by both parties .

The Hearing

7. A determination was made on the documents filed at the Tribunal .

The Law

8. Commonhold and Leasehold Reform Act 2002 Schedule 11 state:-
 - 1(1) In this Part of this Schedule "administration charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—
 - (a) for or in connection with the grant of approvals under his lease, or applications for such approvals,..... .
 - 1(3) In this Part of this Schedule "variable administration charge" means an administration charge payable by a tenant which is neither—
 - (a) specified in his lease, nor .
 - (b) calculated in accordance with a formula specified in his lease. ..
 2. A variable administration charge is payable only to the extent that the amount of the charge is reasonable
 - 5(1) An application may be made to a leasehold valuation tribunal for a determination whether an administration charge is payable

Decision

- 9 The Tribunal determined that for a charge to be an administration charge within the definition of the Commonhold and Leasehold Reform Act 2002 Schedule 11 1(1) (a) it has to be charges for the granting of approvals. The Applicant's lease states that a notice in writing of an underletting is to be given and for a reasonable fee to be paid at the time of notification. This is a notice informing the landlord of the underletting and not a request for consent and therefore does not come within paragraph 1 (1) (a) of Schedule 11 of CLARA.
- 10 This application falls outside the jurisdiction of this Tribunal which is to determine the reasonableness of 'administration charges' as defined in paragraph 1 (1) (a) of Schedule 11 of CLARA. This is supported by a recent decision in CH/00HC/LAC/2011/0015 paragraph 10 where it was determined that the mere registration of a notice of underletting is not an approval.
- 11 The Tribunal thus cannot determine whether or not the registration fee is payable and if so whether £105 notice fee is reasonable as.
- 12 The Tribunal determines that a section 20C order cannot be made as the matter is outside the jurisdiction of the Tribunal.