

BRIEF TO COUNSEL

IN THE WEST LONDON COUNTY COURT
B E T W E E N;-

WL203537

Particulars of claim

STEEL SERVICES LIMITED
(registered in the British Virgin Islands)
Claimant

And

NOEL YVONNE SYLVIE KLOSTERKOTTER DIT RAWE
Defendant

**Brief to Counsel to attend the West London County Court
on the 26th August at 2.00pm and advise in Conference**

Counsel will find herewith:

Bundle 1

1. Claim Form and particulars of claim
2. Acknowledgement of Service and Defence
3. Orders and Claimant's Application dated 6th August 2003
4. Correspondence passing between the Defendant and the West London County Court
5. Defendant's costs in respect of hearing on 24th June 2003.
6. Miscellaneous correspondence in relation to the Claimant
7. Correspondence in relation to 11 Basil Street
8. Copy letter Defendant to Evening Standard 16th August 2003
- 8a. Letter and enclosures received from client on 21st August 2003

3 Dec 2003 Evg Std article
19 Oct 03 Sunday Tel article

19 Aug 03 list of docs
to McLean
21 Aug 03 fax to
McLean

Ⓐ KFT letter to West London

County Court of 23 May 03
states that payment has been
received from 7 respondents,
Hence BEFORE LVT 17 June 03
decision.

Bundle 2

9. Defendant's Lease dated 10th March 1986
10. Lease for 11 Basil Street
11. Claimant's Application to the Leasehold Valuation Tribunal
12. Correspondence passing between the Defendant and the Leasehold Valuation Tribunal
13. Decision of the Leasehold Valuation Tribunal
14. Correspondence between the Defendant, Claimant and Leasehold Valuation Tribunal
15. Correspondence passing between the Claimant, Defendant and Martin Russell Jones.
16. Miscellaneous

LVT section ; Brian Gale-Mr Ladsky's surveyor
Snapshot re works

Instructing solicitors act for the defendant (initially the second defendant) in a claim brought by Steel Services Limited against 11 defendants as per enclosure number 1. Counsel will see that the claim against the second defendant is for the sum of £14,987.83 in respect of unpaid service charges. An acknowledgement of service was filed at the West London County Court by the defendant, at that stage it would appear she was acting in person, from which Counsel will see that the defendant admitted the amount of £356.22 confirmed that she would make payment of that amount to the claimant but disputed various other items as set out in the schedule attached to her defence. Counsel will also see that Miss Rawe wrote to the West London County Court on the 17th of December 2002 confirming that whilst the proceedings in the County Court were issued in November 2002 proceedings had already commenced in the Leasehold Valuation Tribunal (see enclosure number 11). Instructing solicitors are aware from having acted for the third defendant in these proceedings and a further defendant in a further set of proceedings that the majority if not all the lessees save Miss Rawe have now either paid the sums in demand or reduced sums following the Leasehold Valuation Tribunal determination.

Ⓐ Counsel will see from enclosure number 13 (the LVT determination) that the Tribunal dealt with the matter in allowing certain items as per the scott schedule attached to the determination.

The crux of the Defendants defence is that as set out in her letter of 15 July 2003 to the West London County Court which is at enclosure 4. Counsel will see that Miss Rawe claims that the total deduction following the Leasehold Valuation Tribunal's determination should be some 70.8 %.

Whilst you will see from the LVT determination at tab 13 (unfortunately not page numbered but towards the end of paragraph 58, last page) it is correct that the Tribunal confirmed that, "the tribunal is unable to make a determination on the specification, since it is considered inadequate. It follows that the tribunal cannot make a determination on the figure of £60,000.00. However the Respondent has agreed £27,300.00 and this sum is therefore allowed." It is not clear, not having the specification referred to where the figures of £60,000.00 in the LVT determination or the figure of £141,977.00 referred to in Miss Rawes letter have been taken from. Instructing Solicitors are asking Miss Rawe for a copy of the specification

See also Brian Gale section

From my surveyor's 31 July 03 assessment - which was supplied to Ms McLean - as can be seen in the 19 Aug 03 list of docs supplied

Counsel will see from the correspondence at enclosure number 14 and in particular the letters from CKFT of the 17th of July 2003 that they do not accept the assertions made by Miss Rawe. They appear to have invited the Leasehold Valuation Tribunal to make a determination of the specific amount of service charge payable by Miss Rawe and enclose the copy of their revised account giving the amounts that they claim are due. It is not known what the current position is in relation to the Leasehold Valuation Tribunal nor is it clear, as instructing solicitors clearly do not have all the papers, what occurred on the 24th of June 2003 save that the matter did not proceed and the claimants were ordered to pay the defendants costs of attending that day. It was also adjourned to allow the claimants to issue an application for summary judgement which they have done and which the Counsel will find at enclosure number 3. The claimants however in their application dated the 6th of August 2003 do not deal with the fact that they have in any event asked the Leasehold Valuation Tribunal to determine the amount payable specifically by this defendant. It would seem that if the Leasehold Valuation Tribunal are going to give a determination in respect of this defendant only then it seems pointless to have a summary judgement application in the event that the figures are different.

and 21 July 03 letter to LVT - 21 July 03 reply from LVT to Siverstone

What I supplied on 19 August 2003

My 17 Jun and 22 Jun 03 letters to Judge Wright My Diary 24 Jun 03

+ 21 July 03 letter

ⓑ See 21 July 03 Reply from LVT to CKFT: Decision is for all block. Not remit to assess amount due by individual lessee.

It would appear from Miss Rawe's letter to the Court of the 9th of August 2003 that apart from the straight service charge dispute there is an issue with the sums demanded in respect of electricity payments

One of the defendants principal concerns is that the claimant redraw the specification so that she is not "exposed" to further demands at a later stage.

The defendant also appears to have issued an application in the Leasehold Valuation Tribunal pursuant to section 20(c) of the Landlord and Tenant Act 1985. Counsel is not yet instructed on that matter.

+ my 12 Aug 03 letter
+ 7 Apr 03 letter to LVT from my previous solicitors

Due to the shortness of time available prior to the hearing on the 26th of August and the volume of documents instructing solicitors do not intend to do a lengthy written brief but would ask that Counsel discuss the matter with instructing solicitors after having considered the papers and also it would be advisable if there could be a conference with Counsel and the client on the 26th of August prior to the hearing listed for 2.00pm. It may be that that conference should take place as early as 12 noon.

Could Counsel please contact Miss Lisa McLean instructing solicitor to discuss.