



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

Case Reference : LON/00BB/LSC/2014/0410

Property : Apartment 61 Westgate
Apartments, 14 Western Gateway,
London E16 1BJ

Applicant : MG GR Limited

Representative : Scott Cohen, Solicitors

Respondent : Mr Quintin Taylor Hembry

Representative : None

Type of Application : Section 27A Landlord and Tenant
Act 1985 – determination of service
charges payable
Schedule 11 Commonhold and
Leasehold Reform Act 2002 –
determination of variable
administration charges payable

Tribunal Members : Judge John Hewitt
Mr Hugh Geddes JP RIBA MRTPI
Professor Robert Abbey

**Date and venue of
Determination** : Monday 24 November 2014
10 Alfred Place, London WC1E 7LR

Date of Decision : 24 November 2014

DECISION

Decisions of the Tribunal

1. The Tribunal determines that as at 22 May 2014 when the court proceedings were issued there was payable by the respondent to the applicant:

Service charges

Net accrued arrears b/f	£1,518.25
01.07.2013 Half year on account	£ 559.40
01.01.2014 Half year on account	£ 652.46

Variable administration charges

24.01.2014 Initial debt collection fee	£ 120.00
05.03.2014 Prepare file for Conway & Co	£ 300.00
05.03.2014 Conway & Co - Legal fee	£ 270.00
12.03.2014 Conway & Co – Legal fee	£ 468.00

2. The file shall be returned to the County Court at Ipswich for the determination of the following claims which this tribunal does not have jurisdiction to determine:

Arrears of ground rent of £700;
Interest payable pursuant to the terms of the lease £453.41 and cont;
Court fee of £455; and
Costs - unspecified

3. The reasons for our decisions are set out below.

NB Later reference in this Decision to a number in square brackets ([]) is a reference to the page number of the hearing file provided to us for use at the hearing.

Procedural background

4. On 22 May 2014 the applicant landlord commenced legal proceedings against the respondent and his co-joint proprietor of a long lease of the subject flat [73].
5. The co-joint proprietor did not file a defence and a judgment in default was entered against him [145].
6. The respondent did file a defence [142] which asserted:

I do not agree with the service charges. They have not given me a single breakdown of costs. The accounts of the company have not been sent to me. I am a shareholder on the management company."
7. By order made 30 July and drawn 1 August 2014 District Judge Mitchell sitting at the county court at Ipswich made an order that the case be transferred to the tribunal [20].

8. Directions were duly given and were subsequently varied to assist the respondent [3-10]. The respondent did not comply with the directions. The respondent has not filed a statement of case.
9. On 23 October 2014 an order was made pursuant to rule 9(3) [1] which debarred the respondent from taking any further part in the proceedings and the applicant was required to file documents they wished the tribunal to consider on the basis of the respondent's defence filed in the county court.
10. The parties were notified that the tribunal proposed to determine the application without an oral hearing and on the basis of the papers filed pursuant to directions and to do so on 24 November 2014 unless a request for an oral hearing was made. The tribunal has not received any such request.
11. The applicant has provided the tribunal with a statement of case and file of material papers page numbered [1- 145] which we have taken into account in arriving at our decisions.

The service charges claimed

12. The lease of the property is at [22]. The landlord is obliged to keep the development in repair and to provide services as set out in some detail. The respondent, as tenant, is obliged to contribute to the costs incurred by the landlord. The tenant is obliged to make two equal half yearly payments on account – on 1 January and on 1 July in each year and there are provisions for a balancing debit or credit as the case may be once the final accounts are signed off.
13. The reversion was assigned to the applicant by a transfer dated 18 March 2013 and on 10 June 2013 it was registered at Land Registry as proprietor of a lease dated 17 June 2002 registered at Land Registry under title number EGL444471. The applicant thus became the immediate landlord of the respondent and his co-joint proprietor.
14. In the court claim the applicant originally claimed accrued arrears on transfer on 16 April 2013 of £2,638.65 [75]. In its statement of case the applicant has reduced that to £1,518.25 due to the application of certain credits to which the respondent was entitled. The applicant also claimed the on account payments due on 1 July 2013 and 1 January 2014.
15. The defence simply asserted that the respondent had not been given a breakdown of the service charges claimed. We are satisfied that the documents provided by the applicant include detailed information about the historic service charges and the budgets for 2013 and 2014 which inform the amounts of the on account payments due.

The defence also asserted that the respondent had not been provided with company accounts and that the respondent was a shareholder of the management company.

This tribunal is not concerned with the corporate affairs of a party and if the respondent considers that he has certain rights as a shareholder he should pursue them in the appropriate court.

That said we observe that the lease makes no reference to a management company and there is no evidence before us that the respondent is a shareholder of the applicant.

16. In the circumstances we have determined that service charges were payable as set out in paragraph 1 above.

Variable administration charges

17. In the court proceedings the applicant claims a number of variable administration charges. The defence filed by the respondent makes no reference to them at all and thus he does not appear to challenge them.
18. We noted that in its statement of case the applicant had not identified the provisions in the lease relied upon to support the claim that the charges were payable by the respondent and did not provide any evidence that the charges had been incurred and/or paid by the applicant or that the sums claimed were reasonable in amount.
19. As it is none of the charges claimed were challenged by the respondent, even though he was given every opportunity to do so. In these circumstances we have determined that they are payable as set out in paragraph 2 above.

Transfer back to the county court

20. There were some claims made in the court proceedings which we do not have jurisdiction to determine. We have therefore transferred the file back to the county court so that these claims may be pursued if the applicant wishes to do so.

Judge John Hewitt
24 November 2014.