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

Case Reference : LON/00/BK/LSC/2013/0758

Property : Flat 3, 41, St Luke's Road, London W11 1DD

Landlord : Evenlock Limited

Representative : Kensington Flats

Tenant : Neville Hyde

Representative : None

Type of Application : For the determination of the reasonableness of and the liability to pay service charges and an administration charge.

Tribunal Members : A.J.ENGEL – Judge
W.R.SHAW F.R.I.C.S.

Date and venue of Hearing : 19th February 2014.
10 Alfred Place, London WC1E 7LR

Date of Decisions : 14th March 2014

DECISIONS

- A. The Tenant is liable to pay to the Landlord £1,783-12p in respect of unpaid service charges (up to 24th December 2013).**
- B. The Tenant is liable to pay the Landlord an administration charge of £590-20.**

C. The Tenant is liable to reimburse the Landlord, forthwith, the whole of the fees paid by the Landlord to the Tribunal in respect of these proceedings.

REASONS

The Lease

1. The Tenant is the (long) lessee of the Property. There are 5 flats at 41, St Lukes Road.
2. The Lease contains provisions for payment of estimated service charges in advance with the balance to be paid (or credited) when the final accounts have been drawn up at the end of the service charge year (24th December). Flat 3 is liable for one fifth of the total service charges.
3. The Lease contains no provision for a reserve fund.

The Application

4. By written application, the Landlord's Representative applied to the Tribunal for determinations of:-
 - (i) The payablility and reasonableness of unpaid service charges up to 24th December 2013;
 - (ii) The payability and reasonableness of an administration charge of £590-20 in respect of legal fees.

Directions

5. An oral Case Management hearing took place before Judge O'Sullivan who issued Directions dated 28th November 2013.

Section 20C

6. No application under Section 20C of the Landlord and Tenant Act 1985 (Limitation of Costs) was made in the application (referred to at No.4 above). Section 20C is referred to in the Directions of Judge O'Sullivan – but this appears to be an error as such application was not made in the written application (referred to at No.4 above) and it is difficult to imagine circumstances in which such an Order would be of benefit to the Landlord. We, therefore, make no order under Section 20C aforesaid – although either party can apply for such an Order hereafter, if it wishes to do so.

Hearing

7. An oral hearing took place before this Tribunal on 19th February 2014. The Landlord's Representative appeared by J.Fraser and T.Rodrigues. The Tenant did not appear and was not represented.

Final Accounts

8. Final Accounts for the period ending 24th December 2013 have been drawn up and they were adduced in evidence before us.
9. These accounts show that service charge expenditure in the period with which we are concerned (18 months up to 24th December 2013) was £13,794-61.
10. We are satisfied that this expenditure was reasonable.

Reserve Fund

11. However, £4,879-00 of the £13,794-61 was a payment into the reserve fund – for which there is no provision in the lease (see No.3 above).
12. Accordingly, we must deduct £4,879-00 from £13,794-61, which leaves a balance of £8,915-61.

Tenant's Share

- 13 Thus, the Tenant is liable to pay to the Landlord £1,783-12p (being one fifth of £8,915-61) in respect of unpaid service charges up to 24th December 2013.

Administration Charge

14. The £590-20p claimed relates to legal fees incurred in proceedings by the Landlord against the Tenant in other legal proceedings in respect of unpaid service charges. We accept the evidence that these fees have not been recovered in the other legal proceedings and are not recoverable therein. We are satisfied that these charges are both reasonable and payable by the Tenant to the Landlord under Clause 3(f) of the Lease.

Reimbursement of Fees

15. The Tenant has failed to pay service charges and he has taken no part in these proceedings. In these circumstances, we consider it just and equitable to make the Order set out at C above.

SIGNED:

A.J.ENGEL - Judge

