



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

Case Reference : **MAN/00ET/LSC/2015/0035**

Property : **Flat 6, Oakleigh Court, Runcorn, WA7 5WN**

Applicant : **Edge Property Management Co. Limited**

Respondent : **Mr. A. Needlestone**

Type of Application : **Section 27A Landlord and Tenant Act 1985,
("the 1985 Act")
Schedule 11, Commonhold and Leasehold
Reform Act 2002**

Tribunal Members : **Judge C. Wood
Mr.K.Kasambara**

Date of Decision : **31 December 2015**

DECISION

DECISION

1. The Tribunal orders that the Respondent's application under Rule 13 (1)(b) of The Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013, ("the Rules"), for an order for costs against the Applicant is refused.

BACKGROUND

2. Following the decision dated 10 September 2015, ("the Decision"), by e-mail dated 20 October 2015, the Respondent made application for an order for costs against the Applicant.
3. Written submissions on the Respondent's application were sought from both parties and were received in the form of a letter dated 4 November 2015 from the Respondent and a letter dated 17 November 2015 from the Applicant, in each case, with enclosures.
4. The Tribunal determined the application on the papers on 30 December 2015.

LAW

5. Rule 13(1)(b) provides that "...the Tribunal may make an order in respect of costs only-
 - (b) if a person has acted unreasonably in bringing, defending or conducting proceedings in-
 - (i)
 - (ii) a residential property case ..."

EVIDENCE

6. The Respondent's grounds for his application for costs against the Applicant, as set out in his e-mail of 20 October 2015 and re-iterated in his letter received 4 November 2015 is that he had attempted on a number of occasions to negotiate a settlement which efforts culminated in an offer to pay £3359.47 in full and final settlement in an e-mail dated 14 July 2015. Had this offer been accepted, it would have avoided the need for the matter to proceed and for both parties to incur the costs of a hearing.

7. In the letter dated 17 November 2015, the Applicant responds as follows:
 - 7.1 the institution of proceedings against the Respondent was reasonable as he had, at that point, failed to make any service charge payments for 6 years;
 - 7.2 that it was only the issue of the County Court proceedings that had elicited a response from the Respondent despite the prior issue of demands, reminder letters etc;
 - 7.3 that mediation failed by reason of the Respondent's insistence that he was only liable to make payment of 18 months' of service charges;
 - 7.4 that the Respondent's offer of settlement was received only 9 days prior to the hearing by which time the preparatory work for the hearing had already been done;
 - 7.5 the offer of £3359.47 was made in respect of claimed unpaid service charges, interest, administration charges and expenses totalling £6275.99. To accept in the absence of a clear reason for doing so would have left the Applicant open to a challenge from other leaseholders;
 - 7.6 as a result of the Decision, the amount owed by the Respondent was reduced to £4827.34 and, as a result, the Applicant has made adjustments to the Respondent's service charge account. The amount owed is still significantly greater than the amount offered in settlement and, further, the Applicant has the Decision to support the adjustments made;
 - 7.7 the Decision ordered that the Respondent was liable to pay service charge in respect of part of the 2011 service charge year together with the service charge in full for the 2012 service charge year, as well as administration costs incurred in 2013.

REASONS

8. Having regard to the Decision and, in particular to the determinations made in paragraphs 1.2 and 1.3, the Tribunal is satisfied that the Applicant had not acted unreasonably in bringing the proceedings and/or in their conduct of the proceedings, specifically, in their decision to proceed to a hearing of the application. The Respondent had not produced any further or other

evidence in the e-mail of 20 October 2015 or in the letter received on 4 November 2015 to persuade the Tribunal otherwise.

9. In particular, the Tribunal did not consider that it was unreasonable of the Applicant to reject the Respondent's offer of £3359.47 in full and final settlement of the amounts claimed by the Applicant even having regard to the reduction in the amounts determined to be payable by the Respondent in accordance with the Decision.
10. The Tribunal confirms that no determination was made in the Decision with regard to an application for costs from the Applicant, save for noting the Applicant's comment that, on receipt of the Decision, they would consider whether or not they would make such an application. No such application has been received from the Applicant and the Tribunal draws the parties' attention to the time limit for submitting such an application in Rule 13(5).