



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

**Case reference** : **LON/00BE/LSC/2019/0122**

**Property** : **Flat 15, 167 Bermondsey Street,  
London SE1 3UF**

**Applicant** : **Pinewood Property London  
Development Limited**

**Representative** : **AM Surveying & Property  
Management**

**Respondent** : **167 Bermondsey Street RTM  
Company Limited**

**Representative** : **Mr Phillip Delauncey**

**Type of application** : **Liability to pay costs**

**Tribunal member** : **Mrs Anthea Rawlence MRICS  
(Valuer Chair)**

**Date of application** : **25 March 2019**

**Date of decision** : **23 July 2019**

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**DECISION**

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**Decision of the Tribunal**

**(A) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 ('the 1985 Act') so that none of the respondent's costs of these proceedings may be passed to applicant through any service charge.**

**(B) The Tribunal makes an order under paragraph 5A of schedule 11 to the Commonhold and Leasehold Reform Act 2002 ('the 2002 Act') so that the applicant's liability to pay the respondent's costs of these proceedings is extinguished.**

**Background and procedural history**

- (1) This application concerns the service charges for Flat 15, 167 Bermondsey Street, London SE1 3UF ('the Flat') for the years 2015 to 2020.
- (2) The applicant sought a determination under section 27A of the 1985 Act, as to the liability to pay service charges for the Flat. Also sought were orders for the limitation of the respondent's costs in these proceedings under section 20C of that Act and paragraph 5A of schedule 11 to the 2002 Act. The relevant legal provisions can be found in the appendix to this decision.
- (3) A case management conference was held at Alfred Place, London on 25 April 2019 when various issues were identified.
- (4) Directions were issued on 25 April 2019 which stated the issues and set out the preparation required by both parties for a hearing of the case.
- (5) On 20 May the respondent contacted the applicant to state that copies of the accounts in accordance with the Tribunal directions had not been sent.
- (6) The Tribunal contacted the respondent on 22 May who replied that he had given notice to the applicant on 8 March 2019 that the respondent would be withdrawing the service charges in question (and issue new service charge for the current year).
- (7) The Tribunal contacted both parties on 31 May 2019 for clarification with regards to service charges for 2016 and 2017 as it understood that the service charge demands for 2018 were being withdrawn.
- (8) The respondent replied on 7 June 2019 stating that the service charges for all three years had been withdrawn.
- (9) The Tribunal, however, noted that the Section 20(c) application remained 'live' and made directions on 13 June 2019. The Tribunal would make a paper determination on this issue in the week beginning 22 July 2019.

**Parties' submissions**

- (10) The applicant stated that at the Case Management Conference the respondent did not indicate that the service charges were to be withdrawn. He agreed with the timetable set by the Tribunal.

- (11) The respondent stated that he had informed the applicant in March 2019 that the service charges would be withdrawn as the demands did not meet the contractual requirements of the lease.
- (12) He had attended the Case Management Conference because it was an opportunity to outline his case prior to a possible hearing. He had attended without legal representation in order to save on costs.

### **Reasons for the Tribunal's decision**

- (13) The applicant sought orders under section 20C of the 1985 Act and paragraph 5A of schedule 11 to the 2002 Act.
- (14) At the case management conference on 25 April 2019 no indication was given to the Tribunal that the service charges demands were being withdrawn. After directions were issued on 25 April 2019, again no indication was made by the respondent that the service charge demands were being withdrawn.
- (15) In the event, the Tribunal contacted both parties on 31 May 2019 for clarification and the respondent gave this on 7 June 2019.
- (16) The Tribunal finds that the applicant was justified in bringing these proceedings and should not have to bear the respondent's costs.

**Name:** Tribunal Judge Donegan      **Date:** 27 March 2019

### **RIGHTS OF APPEAL**

- 1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
- 2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- 3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- 4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the

case number), state the grounds of appeal, and state the result the party making the application is seeking.

**Section 20C Limitation of service charges: costs of proceedings**

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.
- (2) The application shall be made—
  - (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
  - (aa) in the case of proceedings before a residential property tribunal, to that tribunal;
  - (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;
  - (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
  - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

**Commonhold and Leasehold Reform Act 2002**

***Limitation of administration charges: costs of proceedings***

- 5A(1) A tenant of a dwelling in England may apply to the relevant court or tribunal for an order reducing or extinguishing the tenant's liability to pay a particular administration charge in respect of litigation costs.
- (2) The relevant court or tribunal may make whatever order on the application it considers to be just and equitable.
  - (3) In this paragraph –
    - (a) “litigation costs means costs incurred, or to be incurred, by the landlord in connection with proceedings of a kind mentioned in the table, and
    - (b) “the relevant court or tribunal” means the court or tribunal mentioned in the table in relation to those proceedings.