



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

**Case Reference** : **MAN/00CB/LAC/2018/0005**

**Property** : **181, Poulton Road, Wallasey,  
Merseyside CH44 9DG**

**Applicant** : **Mrs Vivienne Ellen Jurrius  
Represented by Gregory Jurrius**

**Respondent** : **The Ground Rent Trust Limited (1)  
Moreland Estate Management (2)**

**Type of Application** : **Reasonableness and payability of service charges  
Landlord and Tenant Act 1985 section 27A and 20C**

**Tribunal Members** : **Mr J R Rimmer  
Mr J Faulkner**

**Date of Decision** : **14<sup>th</sup> March 2019**

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**DECISION**

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**Order: The service charges for the years 2017 to 2019 are not payable for the reasons set out herein**

### **Application and background**

- 1 The Applicant is the leasehold owner of the ground floor flat situated at and known as 181 Poulton Road Wallasey, Merseyside. The landlord is The Ground Rent Trust Limited and its managing agent in respect of the property appears to be Moreland Estate Management, of 5, Sentinel Square, Hendon, NW4 2EL
- 2 The property at 181, Poulton Road comprises the downstairs flat in a two-storey building which is let to the Applicant by a 999 year lease from 1<sup>st</sup> January 2016 at a rent of £250.00 per year. At the time of the lease the landlord was 365 Asset Management Limited
- 3 The lease contains within it references to the payment of a service charge (defined in the definitions within the lease as the tenant's proportions of the service costs) and which according to the same definitions are to be calculated on an annual basis from 1<sup>st</sup> January in each year. The services themselves are listed in Part 1 of Schedule 7 to the lease and the costs in Part 2.
- 4 The services are the maintaining, decorating, repairing and replacing the retained parts, together with any other service, or amenity that the landlord considers to be in the interests of good estate management. The costs are the costs of those services, together with the insurance premium for the property. They also include costs of management and accountancy and all charges that fall to be borne in respect of the retained land. This includes the main structure of the building, the loft and basement service media and a shared access.
- 5 The catalyst for the dispute which has arisen appears to be the Applicant's dissatisfaction with charges made by the Respondents, for service charges and associated costs to be paid, but in respect of which no information has been provided. The absence of information led initially to an application to the Tribunal for consideration the problem as being one relating to administration charges.
- 6 The Application was therefore listed for consideration at a case management hearing before the Deputy Regional Valuer on 31<sup>st</sup> October 2018. The Applicant attended with her representative. There was no appearance by, or on behalf of the Respondent, nor by its agents, named as Respondent in the application.
- 7 The Deputy District Valuer allowed the application to be amended to proceed as one in relation to service charges, in addition to administration charges, and substituted the Respondent as the correct party in relation to the former. He then issued comprehensive directions for the future conduct of the matter.

- 8 The Respondent failed to comply with the directions and, after due application and notice, was made subject to an order under Rule 9 Tribunals procedure (First-tier Tribunal) (Property Chamber) Rules 2013, dated 19<sup>th</sup> December 2018, barring them from making any further representations in the proceedings (having made none to that point). The matter was therefore listed for inspection, hearing and determination on the Applicant's submissions alone.

### **The law**

- 9 The law relating to jurisdiction for service charges, falling within section 18 Landlord and Tenant Act 1985 is found in section 19 of the Act which provides:
- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period-
    - (a) Only to the extent that they are reasonably incurred, and
    - (b) Where they are incurred in the provision of services or the carrying out of works, only if the services are of a reasonable standard.
- 10 Further, Section 27A of the Act provides;
- (1) An application may be made to a (First-tier Property Tribunal) for a determination whether a service charge is payable and, if it is, as to
    - (a) The person by whom it is payable
    - (b) The person to whom it is payable
    - (c) The amount which is payable
    - (d) The date at or by which it is payable, and
    - (e) The manner in which it is payable

And the application may cover the costs incurred in providing the services etc. and may be made irrespective of whether or not the Applicant has yet made any full or partial payment for those services (Subsections 2 and 3)

Subsection 4 provides for certain situations in which an application may not be made but none of them apply to the situation in this case.

- 11 Schedule 11 to the Commonhold and Leasehold Reform Act 2002 enacted corresponding provisions in relation to administration charges as those set out above for service charges .

## **Inspection**

- 12 On the morning of 4<sup>th</sup> March 2019 the Tribunal inspected the property and found it to be a one-bedroomed flat occupying the ground floor of a two-storey, corner property facing on to Poulton Road, a thoroughfare to Wallasey town centre, but with its front door in the adjoining side road. The building is constructed of brick, partly rendered under a tile roof. The area to the immediate rear is currently under development and could not be accessed. There is little evidence of maintenance being done to the exterior. Weeds grow in the guttering, the electricity meter box is exposed to the elements and the small area of ground to the side of the property is untended. Exterior render is separating from the brickwork.

## **Submissions and hearing**

- 13 In the absence of any submissions and documentation from the Respondent the Tribunal considered the representations made by the Applicant and her representative, which they supported verbally at the hearing held at the Tribunal Service, Dale Street, Liverpool later on the same day.
- 14 The Tribunal was presented with a litany of alleged failures by the Respondent, or agent, to justify any charges levied for services, or any accounts, or invoices, to justify claims for payment. Requests for proof of any insurance cover and associated premiums had not been forthcoming; to the extent that the concerns of the Applicant were such as to take out her own cover.
- 15 The Tribunal appears to have been treated in the same manner. Nothing was forthcoming from the Respondent to justify any of the charges levied for services or insurance.
- 16 Within the documentation submitted by the Applicant are invoices from the landlord's agent setting out not just service charges, but also charges in relation to arrears letters. They appear to relate to arrears of ground rent as well as areas of service charges.

## **Decision**

- 17 For the Tribunal the decision in this case has been a simple one.
- The evidence of the Applicant was unequivocal.
  - Nothing whatsoever was provided by way of documentation to justify any of the charges.
  - Nothing that the Tribunal saw on its inspection spoke of work having been carried out to the structure of the building in the recent past.

- The Tribunal imagined that had there been a large expenditure item, such as an insurance premium, it would have been a simple matter to produce evidence to justify a charge being made
- Nothing in the matters raised above suggests that there is any level of management of the property sufficient to justify a charge.
- It appears that some element of arrears relates to unpaid ground rent and the Respondent might have been justified in pursuing them. In determining the reasonableness of administration charges in respect of pursuing these arrears the Tribunal is drawn to the conclusion that they are unreasonable in the context of the relationship between these parties and the lack of communication from the Respondent and agent.

18 For the reasons set out above the Tribunal determines that no service charge, or administration charge, is payable by the Applicant in respect of the years 2017 and 2018 being the years identified in the directions of the Deputy Regional Valuer.

19 At this stage the Tribunal is therefore unable to make a decision in relation to charges for the current year. Although it is unable to bind itself, or any other tribunal, it would venture to suggest that any proceedings conducted in a similar manner to these would result in the same conclusion.

20 The Application also contains a request that the Tribunal considers making an order under Section 20C Landlord and Tenant Act 1985. Such an order has the effect of preventing any legal or other costs incurred by the Respondents in the proceedings from adding those costs as service charges for future years. Such costs are not within the list of costs in paragraph 16 of Schedule 4 to the lease that the tenant covenants to pay. They are also outside the list of service costs within Part 2 of Schedule 7 and are not recoverable as a service charge in any event.

J R Rimmer  
Tribunal Judge

14<sup>th</sup> March 2019