

IN THE LEASEHOLD VALUATION TRIBUNAL  
UNDER THE LANDLORD & TENANT ACT 1985 S27A

DECISION AND REASONS

Case reference	CHI/21UD/LSC/2008/0016
Property	Flat 6 26 Chapel Park Road St Leonards on Sea E Sussex TN37 6HU
Applicant	Mr John Terry rep by Janet Sinden & Co, Solicitors
Respondent	Mr Richard Bagdon Furman, Flat 6
Tribunal members	Ms H Clarke (Chair) (Barrister) Mr C White FRICS
Date of hearing	24 April 2008
Date of decision	25 April 2008

**1. APPLICATION**

The Applicant sought a determination by the Tribunal that the Respondent was liable to pay service charges for the years ending March 2004, 2005, 2006, 2007 and 2008. At the hearing the Applicant abandoned his request for a determination to year ending March 2008.

**2. DECISION**

The Tribunal determined that the sum of £3404.88 was payable by the Respondent by way of service charges up to 25 March 2007.

**3. THE LAW**

Under s27A Landlord & Tenant Act 1985:

*“Liability to pay service charges: jurisdiction*

*(1) An application may be made to a leasehold valuation 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..”*

#### **4. THE LEASE**

A copy of the Lease for Flat 6 was produced. The relevant sections of the Lease provided for the tenant to pay service charges for the costs to the landlord of complying with his covenants including the maintenance, cleaning of the common parts and insurance of the Building. The Lease also provided that the tenant shall pay for:

*“the fees and disbursements paid to any Managing Agents for the management of the Building and the provision of services therein”*  
and a contribution to the reserve fund.

#### **5. INSPECTION**

The Tribunal inspected the exterior of the building containing the flat in question immediately before the hearing, but was unable to obtain access to the interior. The building comprised a converted semi-detached house which appeared to be in reasonable condition, containing 7 flats. There was some plant growth visible to the front guttering and the external decorations were weathered.

#### **6. THE HEARING**

The Applicant was unable to attend in person due to ill-health but was represented by Mrs Janet Sinden, Solicitor. The Respondent did not attend the hearing nor did he submit any evidence or representations to the Tribunal. Copies of the Application and information about the hearing were sent by the Tribunal to both the addresses known for the Respondent.

#### **7. EVIDENCE**

The Applicant relied on his witness statement and copies of service charge accounts provided by the previous managing agents. The Respondent had acquired the lease of Flat 6 in July 2002. At that time until about 2006 the management of the property was carried out by Seaford Property Management Company Limited (“SPMC”). SPMC went into liquidation in 2006 and was unable to account for money which had been collected by it from the lessees. The successor to SPMC was Oakfield Property Management Ltd (“Oakfield”) who managed until transfer to the Applicant. On 11 September 2007 the Applicant completed his purchase of the freehold reversion at auction. He obtained records of the service charge accounts from SPMC from 2003-2007, which were provided to the Tribunal. He also obtained accounts from Oakfield which showed the balances due on transfer to the Applicant, and which were provided to the Tribunal. The Applicant had personally credited the service charge account with the amount which had not been passed on by SPMC, and had commenced proceedings to recover that amount from the previous freeholder as it had not been claimed in the liquidation.

8. The accounts showed that a net total of £3404.88 was due from the Respondent for the years 25 March 2003 to 25 March 2007. No payment had been received from him during that time, but the amount outstanding had been adjusted by credits arising from a year-end surplus over the amount claimed on account and from a refund for cleaning charges. The charges included charges for management fees. It was not clear from the evidence whether those charges had been received by SPMC, but if they had not, they could still be demanded by the company's receiver. Receipts were provided for certain items of maintenance and proof of the insurance premium. The charges also included payments to the reserve fund and payments on account of major works. The Applicant's solicitor told the Tribunal that the other lessees had paid the sums demanded.
9. There was no documentation or statement before the Tribunal relating to the reasons why the Respondent had not made payment, save for a letter from him to Oakfield dated 17 May 2007. This letter asserted that he would not pay backdated charges to SPMC (although it did not give a reason) and stated that he 'acknowledged' the service charge from 26 March 2006.

#### 10. REASONS FOR DECISION

The Tribunal considered on the evidence that the sums claimed, where identifiable, were items for which the tenant was liable to pay under the terms of the Lease. The service charge accounts provided by SPMC and Oakfield demonstrated *prima facie* that those sums were due from the Respondent. Other tenants had paid the sums demanded, either at the time or later. The Respondent had not given any grounds for disputing any item, either in the letter of 17 May 2007 shown to the Tribunal or in the current proceedings. The letter itself referred to the Respondent having received a form for application to the Tribunal in 2007, but he had made no such application and had not participated in the current proceedings. In that same letter he had admitted a liability for service charges with effect from 26 March 2006, but had made no payment. There was therefore no ground of dispute to any of the charges.

Signed-----*MLC*----- Chair

Dated-----*25 Apr 12 08*-----