

9798



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

**Case Reference** : LON/00BK/LSC/2013/0676

**Property** : Flat 35 Fountain House, 73/83 park Street, London W1K 7HG

**Applicant** : Fountain House Management Company Limited

**Representative** : Lee Pomerane Solicitors

**Respondent** : Bin Karan Investment Company Limited

**Representative** : None

**Type of Application** : For the determination of the reasonableness of and the liability to pay a service charge

**Tribunal Members** : Judge O'Sullivan

**Date and venue of Hearing** : 10 Alfred Place, London WC1E 7LR

**Date of Decision** : 7 January 2014

---

**DECISION**

---

## **Decisions of the tribunal**

The tribunal finds that the estimated costs before it in relation to the years 2012/13 and 2013/14 are reasonable.

## **The application**

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the reasonableness of service charges payable by the Respondent in respect of the service charge years 2012/13 and 2013/14.
2. Directions were made dated 22 October 2013 which provided for this matter to be considered by way of a paper determination in the week commencing 6 January 2014.
3. The relevant legal provisions are set out in the Appendix to this decision.

## **The background**

4. The property which is the subject of this application is a flat in a block containing 62 flats in total.
5. Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
6. The Respondent holds a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease and will be referred to below, where appropriate.

## **The Applicant's case**

7. The Applicant was directed to serve service charge accounts for the years in question together with details of the expenditure together with the budget. By letter dated 30 October 2013 the solicitors for the Applicant served budgets for both service charge years, the final accounts for 2012/13 not being ready.
8. The amounts in issue are as follows;

2012/13 – balance of reserve fund £1,668.85

2012/13 -on account charges £8,082.37

2013/14 – reserve fund £4,239.48

2013/14 –on account charges £8,295.95

9. The Applicant provided copy invoices as served on the Respondent in respect of the charges.

### **The Respondent's case**

10. The Respondent has not provided any statement of case and has not taken any part in the proceedings. It appears therefore that the Respondent does not oppose the charges.

### **The tribunal's decision**

11. The tribunal determines that the service charges for 2012/13 and 2013/14 referred to above are reasonable.

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

12. The tribunal was satisfied that the service charges have been properly demanded in accordance with the provisions of the lease. The tribunal was satisfied that the Applicant may demand a sum on account of future expenses. No challenge to the charges has been raised by the Respondent. The charges before the tribunal are estimated and the Respondent may raise a challenge to the actual charges once known.

### **Application under s.20C and refund of fees**

13. There were no applications in respect of costs before the tribunal.

**Name:** S O'Sullivan

**Date:** 7 January 2014

## Appendix of relevant legislation

### Landlord and Tenant Act 1985 (as amended)

#### Section 27A

- (1) An application may be made to the appropriate 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.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
  - (a) the person by whom it would be payable,
  - (b) the person to whom it would be payable,
  - (c) the amount which would be payable,
  - (d) the date at or by which it would be payable, and
  - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which -
  - (a) has been agreed or admitted by the tenant,
  - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
  - (c) has been the subject of determination by a court, or
  - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.