



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

Case Reference : BIR/44UE/LIS/2015/0036

Property : 22 Coopers Close, Stratford-upon-Avon, Warks., CV37 0RS

Applicant : Holding & Management (Solitaire) No.2 Limited

Representative : J.B. Leitch Limited, Solicitors

Respondent : Mr Stuart Paul Worley

Representative : None

Type of Application : An application under section 27A of the Landlord & Tenant Act 1985 ('the Act') for a determination of liability to pay and reasonableness of service charges, and Administration Charges under paragraph 5 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ('the 202 Act')

Tribunal Members : I.D. Humphries B.Sc.(Est.Man.) FRICS (Chairman)
Judge M.K. Gandham
D. Douglas

Date and Venue of Hearing : Determined by written submission

Date of Decision : **16 November 2015**

DECISION

Introduction

- 1 This is an application by the management company of a building known as 22 Coopers Close, Stratford-upon-Avon, Warwickshire, CV37 0RS, for the assessment of the reasonable service charges and administration charges payable by the lessee Mr Worley.
- 2 The Management Company brought proceedings in Warwick County Court by claim No. AOCW89C3 for arrears of ground rent, service charges and administration charges. The Court gave judgment for the claimant in respect of the ground rent and transferred the remaining issues to the First-tier Tribunal (Property Chamber) by Order of District Judge A.S. Jones dated 2nd April 2015.
- 3 The Tribunal issued Directions dated 30th July 2015.
- 4 The Applicant complied with Directions and submitted its case as directed.
- 5 The Respondent failed to comply with Directions and as a result, was barred from taking any further part in the proceedings with effect from 4.00 p.m. on 30th September 2015 under Rule 9(1) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.
- 6 The Tribunal inspected the exterior of the property and common parts on 19th October 2015.

Relevant Law

1 Service Charges

- 7 The relevant law is contained in the Act.
- 8 Section 18 defines a 'service charge' as an amount payable by a tenant of a dwelling as part of or in addition to rent which is payable directly or indirectly for services, repairs, maintenance, improvements, insurance or the landlord's cost of management, the whole or part of which varies according to the relevant cost.
- 9 Section 19 provides that relevant costs shall be taken into account in determining the service charge payable for a period (a) only to the extent that they are reasonably incurred and (b) where they are incurred on the provision of services or carrying out of works, only if the works are of a reasonable standard and in either case the amount payable is limited accordingly.
- 10 Section 27A(1) provides that an application may be made to a Leasehold Valuation Tribunal (LVT), now the First-tier Tribunal (Property Chamber), to determine whether a service charge is payable and if so, the person by whom it is payable, to whom, the amount, the date payable and manner of payment. The subsection applies whether or not payment has been made.
- 11 These are the statutory criteria that govern the Tribunal's jurisdiction. It must also take into account precedents of the Courts relating to interpretation of those statutory criteria.

2 Administration Charges

- 12 Similar provisions are set out in Schedule 11 paragraph 5 of the 2002 Act in respect of administration charges, defined in Schedule 11 paragraph 1 of the 2002 Act.

The Lease

- 13 The service charge provisions are contained in a Lease dated 4th November 2006 made between David Wilson Homes Limited (Lessor), Holding & Management (Solitaire) No.2 Limited (the Management Company) and Stuart Paul Worley (the Lessee).
- 14 Clause 3.1 of the Lease requires the Lessee to perform the obligations in the Third Schedule.
- 15 Clause 3.2 of the Lease requires the Lessee to pay the service charge.
- 16 Clause 3.3 of the Lease requires the Lessee to pay a due proportion of any Maintenance Adjustment.
- 17 Clause 3.4 of the Lease requires the Lessee to pay a due proportion of any Special Contribution.
- 18 Service charge, Maintenance Adjustment and Special Contribution are defined in clause 1.7 of the Lease, paragraph 3 of the Fourth Schedule and clause 1.8 of the Lease.
- 19 Clause 2(b) of the Third Schedule requires the Lessee to pay all costs and expenses incurred by the Management Company in enforcing payment of Rent, Service Charge, Maintenance Adjustment and Special Contribution on an indemnity basis.

Facts Found

- 20 The Tribunal inspected the exterior and common parts of the building containing the demise on 19th October 2015. The property was well maintained, the interior and exterior were well decorated, the communal areas clean and tidy and the grounds including both the parking area and borders, well maintained. The only defect noted during the inspection was some cracked rendering on the parapet of the front elevation which the Property Manager said would be repaired which had already been noted for action.

Submissions

21 For the Applicant

The Applicant claimed there were outstanding payments due from the Respondent comprising:

(i)	2014 Half yearly ground rent administration charges	£ 75.00
(ii)	Block Service Charge year end adjustment charges for year 1.4.13 - 31.3.14	£ 27.89
(iii)	Estate Service Charge 1.10.14 - 31.3.15	£ 226.50
(iv)	Half yearly Service Charge 1.10.14 - 31.3.15	£ 470.13
(v)	Service Charge administration charge 2014 - 2015	£ 120.00

The Applicant provided copies of all the demands sent to the Respondent listing the items claimed totaling £919.52.

22 For the Respondent

The Respondent failed to comply with Tribunal Directions and was barred from taking any further part in proceedings with effect from 4.00 p.m. on 30th September 2015 under Rule 9(1) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Tribunal Determination

- 23 The Applicant's submission did not include a copy demand in respect of the claimed £75 administration charge identified as item (i) above. The Tribunal therefore wrote to the Applicant requesting a copy and received a reply from the Applicant's Solicitors on 22nd October advising that neither they nor their client could provide a copy. Accordingly, the Tribunal finds that the charge has not been correctly demanded and is therefore not payable.
- 24 The Tribunal finds all the other items reasonable and payable by the Respondent as follows:

Service Charges	£724.52	(Seven Hundred and Twenty Four Pounds Fifty Two Pence)
Administration Charges	£120.00	(One Hundred and Twenty Pounds)

Appeal Procedure

- 25 If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property), whose address is 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London, WC4A 1NL. Any such application must be received within 28 days after the decision and accompanying reasons have been sent to the parties.

I.D. Humphries B.Sc.(Est.Man.) FRICS

Date: 16 November 2015