



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

Case Reference : BIR/00CQ/MNR/2014/0092
BIR/00CQ/LSC/2014/0012

Property : 68 Laneside, Willenhall Wood,
Coventry CV3 3EY

Applicant : Mr T L Williams

Respondent : Whitefriars Housing Association

Date of Application : Housing Act 1988: 23rd June 2014
Landlord and Tenant Act 1985: 23rd
June 2014

Type of Application : Sections 13 and 14 of the Housing Act
1988
Section 27A of the Landlord and
Tenant Act 1985

Tribunal : Mr R T Brown FRICS
Mr P Hawksworth

**Date and venue of
Hearing** : Considered on 13th August 2014
at the First-tier Tribunal (Property
Chamber), Priory Court, Bull Street,
Birmingham.

DECISION

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DECISION

1. The Tribunal orders that in accordance with Rule 13(1)(b) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber Rules 2013 that the Respondent pays the sum of £65.00 to the Applicant.

Background

2. On the 23rd June 2014 the tenant of the above property, as Applicant, referred to the Tribunal a notice of increase of rent served by the landlord (the Respondent) under section 13 of the Housing Act 1988. Accompanying that application was an application for the determination of the reasonableness of variable service charges under section 27A of the Landlord and Tenant Act 1985.
3. The landlord's notice, which proposed a rent of £83.56 per week (including variable services of £6.71) with effect from 7th April 2014, is dated the 24th February 2014.
4. The tenancy is an assured periodic tenancy which commenced on 2nd July 2001. The current rent payable is £81.55 per week (including variable services). The tenant is responsible for internal decoration and the landlord for external decoration and all repairs.
5. A case management hearing took place on 13th August 2013, following which Directions were issued directing the parties to prepare for a full hearing of the issues or as appeared appropriate to the Tribunal from the papers before it the Applicant might wish to withdraw both applications.
6. This suggestion was made by the Tribunal in the interests of good case management and Rule 3 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber Rules 2013 because a letter was produced at the case management hearing from the Respondent landlord dated 16th July 2014 to the Applicant tenant formally withdrawing the intended increase on the basis that a '*procedural oversight*' had occurred making the proposed increase invalid.
7. The Tribunal wrote to the parties on the 27th August 2014 in the following terms:

'In view of the circumstances surrounding Mr Williams request (i.e. the withdrawal by Whitefriars Housing Association of its proposed increase in rent and service charge for the 2014 year) the Tribunal is further minded to grant the request upon terms under Rule (4) which states: '*The Tribunal may make such directions or impose such conditions on withdrawal as it considers appropriate*'.

The terms proposed by the Tribunal were that the Respondent paid to the Applicant his application fee of £65.00, for the service charge application.

By no later than 16.00 hours on Tuesday 9th September 2014 the Respondent was to notify the Tribunal (with copy to the Applicant) of its acceptance of these terms or provide reasoned explanation as to why it

should not, given the circumstances under which the application was made, reimburse the Applicant.

By the same date the Applicant was invited to make such submission as he considered appropriate.

8. By a letter to the Tribunal dated 15th September 2014 the Respondent confirmed that it was happy to pay the Applicant's application fee of £65.00.

The Tribunal's Deliberations

9. The Tribunal noting the Applicant's request, dated 18th August 2014, to withdraw both applications and the Respondent's agreement thereto approves the request. Both applications are therefore withdrawn.
10. The Tribunal noted that the Respondent had admitted its error however this had occurred after the Applicant had incurred the expense of the Application fee. The Tribunal further noted the prompt and proper action of the Respondent in admitting its error and subsequently agreeing to reimburse the Applicant the application fee.
11. The Tribunal accordingly concluded that it was appropriate for it to make the order (requiring the Respondent to reimburse the Applicant's application fee in the sum of £65.00) suggested in its letter to the parties dated 27th August 2014.

Relevant Law

12. The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013
13. Sections 13 and 14 of the Housing Act 1988.
14. Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 SI No: 259.
15. Section 27A of the Landlord and Tenant Act 1985.

Appeal Provisions

16. If either party is dissatisfied with this decision they may apply to this Tribunal for permission to appeal to the Upper tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties (Rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

20 OCT 2014

Robert T Brown Chairman