



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER (RESIDENTIAL  
PROPERTY) &  
IN THE COUNTY COURT AT  
NOTTINGHAM, sitting at the  
Nottingham Justice Centre**

**Tribunal reference** : **BIR/00FY/LIS/2019/0039**

**Court claim number** : **F63YJ455**

**Property** : **46 Crusader House, Thurland St,  
Nottingham, NG1 3BT**

**Applicant/Claimant** : **Crusader House and George Street  
Trading House RTM Company Ltd**

**Representative** : **Watson Property Management**

**Respondent/  
Defendant** : **Talat Edmeer**

**Representative** : **In person**

**Tribunal members** : **Judge Andrew McNamara  
Mr Graham Freckelton FRICS**

**In the County Court** : **Judge Andrew McNamara (sitting as a  
District Judge of the County Court) with  
Mr Graham Freckelton as assessor**

**Date of decision** : **3 March 2020**

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**DECISION**

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### **Summary of the decision made by the FTT**

1. The Application in respect of the unpaid service/administration charges of £4243.86 is made out.

### **Summary of the decision made by the County Court**

2. The Defendant shall pay the Claimant's costs in the sum of £205.00 in respect of the Court Fee.

### **Background**

3. By an undated claim form, accompanied by undated Particulars of Claim, the Applicant issued proceedings in the County Court, claim number F63YJ455. The claim was for unpaid service and administration charges in the sum of £4243.86. There was no claim for statutory interest pursuant to section 69 County Courts Act 1984. Accordingly none will be allowed.
4. The Respondent filed a Defence and Counterclaim dated 27 May 2019. The counterclaim alleged:
  - a. Breach of contract
  - b. Failure to comply with the limited company rules
  - c. RTM company regulations/rules not followed.
5. The nature of the Respondent's complaint was not particularised.
6. As the Directions of Regional Judge Jackson dated 16 September 2019 make clear, on 16 August 2019 the matter was initially allocated to the small claims track by DJ Maybury; and, subsequently, on 9 September 2019, transferred to the FTT by DDJ, as she then was, McClure.
7. On 13 December 2019, the Tribunal undertook an inspection and conducted a hearing at the Nottingham Justice Centre at which both parties were represented as identified above.
8. The subject property is 46 Crusader House, Thurland St, Nottingham NG1 3BT. This is an apartment within the residential complex at Crusader House situated in the Lace Market in Nottingham. There are 90 apartments altogether in Crusader House and a further 58 apartments in another complex in George St, Nottingham, both of which are managed together.

9. On 2 February 2007 the Respondent acquired the balance of a long lease of the subject property, which requires the Applicant to provide services and for the Respondent to contribute towards their costs by way a variable service charge. The Applicant is an RTM company which has taken over the management responsibilities of a management company specified in the Lease. It is not the freeholder, which is a different company and which has not been involved in this dispute. The specific provisions of the lease will be referred to below, where appropriate.
10. The claim against the respondent in the County Court comprised of the following:
  - (i) A service charge amounting to £3,675.66;
  - (ii) Administration charges of £568.20;
  - (iii) Court fee of £205.00;
  - (iv) Although there is a reference to statutory interest being payable under a covenant in the lease, there is no claim for interest in the prayer in the Particulars of Claim;
  - (v) Although the Particulars of Claim refers to covenants to pay costs, the Applicant's additional costs were not particularised; and no information in relation to costs other than the cost of issuing the claim in the County Court was before the Tribunal/Court.
11. The order transferring issues to the Tribunal was in accordance with section 5(2)(t) and (u) County Courts Act 1984, as amended by Schedule 9 Crime and Courts Act 2013.
12. All First-tier Tribunal ("FTT") Judges are now Judges of the County Court. Accordingly, where FTT Judges sit in the capacity as Judges of the County Court, they have jurisdiction to determine issues relating to ground rent, interest or costs, that would normally not be dealt with by the Tribunal.
13. As identified above, Regional Judge Jackson issued Directions dated 16 September 2019, informing the parties that all the issues in the proceedings would be decided by a combination of the FTT and the Tribunal Judge member of the FTT sitting as a Judge of the County Court.
14. Accordingly, Judge McNamara presided over both parts of the hearing, which has resolved all matters before both the tribunal and the court. The Tribunal member, Mr G S Freckelton, was appointed as assessor for the County Court trial.
15. In the Directions of 16 September 2019, the Applicant was required to provide a Statement of Case by 8 October 2019; and the Respondent was ordered to provide a Statement of Case by 29 October 2019. In addition, although contrary to any direction and without the permission of the Tribunal, the Respondent also produced an additional document by way of a Reply dated 3 December 2019. No objection was raised to the production of the document.

16. The thrust of the Respondent's complaint is that he paid £10,000 to the current RTM company's predecessor and has not had a satisfactory explanation as to what the money was applied to and whether that money or a balance was credited to his account upon the acquisition of the right to manage by the current company.
17. At the hearing the Respondent's evidence/submission to the Tribunal was, surprisingly, to the effect that he '*did not have a problem with the service charge*'. As the Tribunal understands that evidence, it is that the Respondent does not deny the Applicant's entitlement to recover the charges claimed. Put simply, since the other matter regarding the transition from one RTM company to another and the whereabouts of the Respondent's payments is not one that either the Tribunal or the Court can resolve in these proceedings/application, there is no 'defence' to the claim.
18. The Applicant was represented by Ms A Riaz, a credit control legal advisor employed by the Applicants agent, Watson Property Management ("the Manager").
19. This decision will act as both the reasons for the Tribunal decision and the reasoned judgment of the County Court.

### **The issues & decisions (FTT)**

#### *Service charges*

20. The Tribunal is satisfied that by virtue of clauses 3.2 and the operation of Part 2 of Schedule 4 of the Lease dated 14 August 2003, and his admission, that the Respondent is contractually obliged to pay the estimated expenditure proposed to be incurred by the Applicant in providing the services set out in Schedule 5.
21. In the Applicant's statement of case, prepared by Ms Riaz on 3 October 2019, the Applicant identified the outstanding service charges for the period 1 October 2017 to 30 September 2019: the Respondent's contribution is £3705.38.
22. A budget service charge for the service charge years ending 31 March 2018 and 31 March 2019 was set out at Appendix E to that statement. The budgets identified the cost centres for which services are to be incurred, and correctly apportioned the contributions of the Respondent as set out in Schedule 5 of the Lease. In the light of the admission, the Tribunal has not examined the amounts in detail. It is not the Tribunal's responsibility to investigate the quantum of the budgets of its own volition.
23. Applications (demands) for payments were dated 4 September 2017; 11 April 2018; and 4 April 2019.

24. On 20 April 2017, the Respondent paid £951.60 towards the service charges.
25. There have been no further payments from the Respondent.
26. The Respondent's case raised matters which this Tribunal cannot resolve: in a nutshell, his concern is that historical service charge payments have not been properly accounted for by the current Managing Agent or their predecessor; and until such time as he is satisfied that those payments have been reconciled/accounted for, he has no intention of paying the sums which have been demanded in this case.
27. The Tribunal is satisfied that, in the light of the Respondent's admission, the service charge invoices for estimated expenditure in respect of the service charge years 2017/18 and 2018/19 and all other charges have been properly demanded from those to whom they are addressed, and are properly due. The Tribunal therefore determines that the Respondent is liable to pay service charges to the Applicant in the sum claimed, namely £3,675.66 plus administration charges of £568.20 (£4243.86).

### **The issues & decisions (County Court)**

#### *Interest*

28. No claim for interest was made in the prayer in the Particulars of Claim or elsewhere. The basis for any interest claim was not set out as required in Part 16 CPR. No schedule of interest claimed was provided. Accordingly, the court does not award interest to the Applicant.

#### *Costs*

29. Since the Applicant did not particularise its costs, the costs are limited to the recovery of the court fee of £205.00.
30. Given that the First-tier Tribunal has made a decision regarding the Service Charges and Administration Charges, the Applicant is entitled to judgment in that sum, and to reimbursement of the court fee. A separate County Court order, reflecting this decision is attached.

Judge Andrew McNamara  
Graham Freckelton FRICS.

## **Right of appeal**

### **Appeals in respect of decisions made by the FTT**

A written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

### **Appeals in respect of decisions made by the Tribunal Judge in his/her capacity as a Judge of the County Court**

An application for permission to appeal may be made to the Tribunal Judge who dealt with your case or to an appeal judge in the County Court.

Please note: you must in any event lodge your appeal notice within 21 days of the date of the decision against which you wish to appeal.

Further information can be found at the County Court offices (not the Tribunal offices) or on-line.

### **Appeals in respect of decisions made by the Tribunal Judge in his/her capacity as a Judge of the County Court and in respect the decisions made by the FTT**

You must follow **both** routes of appeal indicated above raising the FTT issues with the Tribunal Judge and County Court issues with either the Tribunal Judge or proceeding directly to the County Court.