



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

Case Reference : **BIR/41UE/LAM/2021/0005**
(Clear Building Management Limited
Reference: REQ001915/2021)

Subject premises : **Tower Court/Trinity Court/Windsor Court**
No 1 London Road
Newcastle-under-Lyme
ST5 1LT

Applicant : **Ian Hollins**

Respondents : **(1) Number One London Road**
Management Limited
(2) Leaseholders of the apartments in the
subject premises

Type of Application : **Application for Directions under section**
24(4) of the Landlord and Tenant Act 1987
and under paragraph 23(c) of the
Tribunal's Order dated 11 February 2020

Tribunal Members : **Deputy Regional Judge Nigel P Gravells**
Graham Freckelton FRICS

Date of order : **25 November 2021**

DECISION

- 1 Mr Ian Hollins was appointed manager of the subject premises by Order of the Tribunal dated 11 February 2020.
- 2 By application, dated 23 September 2021, under section 24(4) of the Landlord and Tenant Act 1987 and paragraph 23(c) of the Tribunal's Order, Mr Hollins seeks the authorisation of the Tribunal to demand additional service charges from the leaseholders of the apartments in the subject premises ('the leaseholders'). The additional charges are required to meet outstanding and recurrent payments of instalments for the buildings insurance premium and for the waking watch.
- 3 Mr Hollins has set out the circumstances and the need for the additional demands in his application –
 - (i) Buildings insurance premium: The budget figure for the service charge year 2021/2022, based on the actual cost for 2020/2021 and the broker's advice, was £330,000 (inclusive of monthly instalment financing costs and IPT). The actual cost for the service charge year 2021/2022 is £369,146.50 (inclusive of monthly instalment financing costs and IPT). The additional costs for the service charge year 2021/2022 are therefore £39,146.50.
 - (ii) Waking watch costs: The budget figure for the service charge year 2021/2022 was £36,166.80 (inclusive of VAT). That figure was based on the understanding that the waking watch would only be necessary until 30 June 2021, when the replacement fire alarm system would be installed. Payment of the fire alarm costs (from the waking watch relief fund) was delayed so that it has proved necessary to extend the waking watch until 31 December 2021. The additional costs for the service charge year 2021/2022 are £72,334.08 (26 weeks @ £2,782.08 per week (inclusive of VAT)).
- 4 The leaseholders were given the opportunity to respond to the application, specifically (i) to confirm whether they agreed to the additional payments identified by Mr Hollins and (ii) if they did not agree, to explain the reason(s) for the disagreement and an explanation as to how the shortfall in funding identified by Mr Hollins should be met.
- 5 Ten leaseholders (approximately ten per cent of the leaseholders in the development) responded and some of their representations related to matters outside the scope of the present application.
- 6 The principal argument of the leaseholders who did respond was that interim service charge payments were due on 1 April 2021 and 1 October 2021 and that these should be sufficient to enable Mr Hollins to pay instalments for buildings insurance and the waking watch.
- 7 In the view of the Tribunal, that argument fails to take full account of the following factors –
 - (i) Although the leases provide for interim service charge payments on 1 April 2021 and 1 October 2021, most of the leaseholders pay monthly under an agreed payment plan.
 - (ii) Where service charge income is received on a monthly basis, there is very limited scope for flexibility in making payments in respect of non-regular expenditure.
 - (iii) One of the leaseholders (Mr Sproston) seemed to suggest that the service charge fund should be 'in surplus' because the interim service charge

payments during the period April-July 2021 included contributions to the buildings insurance premium, although no premiums were payable under the insurance policy until August 2021. That argument fails to recognise that payments from the service charge account are not evenly spread throughout the year. In particular, more expenditure is incurred in the first half of the year.

- (iv) The present application relates to unforeseen and unbudgeted expenditure.
 - (v) The budget for buildings insurance was reasonably based on the actual cost for 2020/2021 and the broker's advice but the final premium was higher.
 - (vi) The waking watch budget for 2021/2022 only included costs for April to June 2021. As explained above, those costs have continued to be incurred on a monthly basis but there is currently no provision for those costs in the interim service charge payments.
- 8 For the above reasons the Tribunal is of the view that it should approve Mr Hollins' application.
- 9 The Tribunal therefore authorises Mr Hollins to demand from the leaseholders the additional service charges totalling £111,480.58 detailed in paragraph 3 above.

25 November 2021

Professor Nigel P Gravells
Deputy Regional Judge