



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY) AND IN  
THE COUNTY COURT AT  
CLERKENWELL & SHOREDITCH  
SITTING AT 10 ALFRED PLACE, WC1E  
7LR**

**Case reference** : **LON/00BE/LSC/2020/0280**  
**HMCTS code** : **V: CVPREMOTE**  
**(video)**

**Property** : **Flat B, 34 Glengall Road, London SE15  
6NN**

**Applicant** : **Rafael Frank Pittman**

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

**Respondent** : **Patrischia Warmington**

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

**Type of application** : **For the determination of the liability to  
pay service charges under section 27A of  
the Landlord and Tenant Act 1985**

**Tribunal members** : **Judge Tagliavini  
Ms S Coughlin MCIEH**

**In the County  
Court** : **Judge Tagliavini sitting as a District  
Judge of the County Court**

**Venue & date  
of hearing** : **10 Alfred Place, London WC1E 7LR  
V: CVPREMOTE.  
11 January 2021**

**Date of decision** : **25 January 2021**

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**DECISION**

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## **Covid-19 pandemic: description of hearing**

This has been a remote video hearing which has been consented to by the parties. The form of remote hearing was **V: CVPREMOTE**. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents that the tribunal was referred to are in a bundle pages 1 to 62 the contents of which, the tribunal has noted. The order made is described at the end of these reasons.

## **Summary of decisions of the first-tier residential property tribunal**

- (1) The sum of £2,931.20 is reasonable and payable by the respondent to the applicant for the service charges incurred in the years 2007 to 2019 (inclusive) and up until 15 May 2020.**

## **Summary of the decisions made by Judge Tagliavini sitting as a judge of the County Court**

- (1) Judgment is entered for the claimant in the sum of £2,931.20.**
- (2) A count court fee of £205 is payable by the defendant. No order for any further costs or interest.**

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## **The application**

1. The County Court proceedings were originally issued in the County Court Centre Business Centre under Claim No. 143MC960 seeking a money judgment for unpaid service charges for the sum of £8,718.82 and interest at a daily rate of £1.91 from the date of issue of proceedings on 11 June 2020 together with a claim fee of £420. The claim was subsequently transferred to the County Court at Clerkenwell & Shoreditch by an Order of DDJ Brafield transferring all issues to the First Tier Tribunal (Property Chamber) including interest and costs.
2. Flat B, 34 Glengall Road, London SE15 6NN ('the premises') comprise a flat on the lower ground floor of a house converted into three flats. The applicant is the freeholder and occupies the two upper flats in the building and the respondent holds a long leasehold interest of the lower ground floor flat under a lease date 28 July 1978 made between Malcolm Harwood Crinan and Efen Sadie and Virginia Sadie for a term of 99 years from 25 December 1977. The parties agree that each flat is liable to pay one third of the service charges. The respondent however queries whether the payment sought by the applicant for service charges said to have been incurred during the period 2007 to 2020 have been properly demanded in accordance with the terms of the lease and whether the applicant has complied with the necessary consultation procedures pursuant to section 20 of the Landlord and Tenant Act 1985.

## **The applicant's case**

3. In a Statement dated 12 November 2020 the applicant stated that as a freeholder he has incurred expenses for repairs, replacements and maintenance from 2002 to 2020 that have resulted in improvements enjoyed by Ms Warmington. In support of his claim the applicant provided the tribunal with a spread sheet of (i) audited accounts showing a deficit of £7,710.50 to which (2) further arrears of £1,608.32 were added providing a total of £9,318.82 (not the figure of £8,718.82 erroneously totalled in the county court proceedings).
4. Mr Pittman did not accept that any of the works he had carried out amounted to improvements and that all notices had been served correctly. In his statement Mr Pittman accepted that management fees were not provided for in the lease but as it was an old fashioned lease it was reasonable to include these expenses as it was considered normal practice by freeholders by his accountant and fairly represented the time he spent of managing the property.
5. Mr Pittman asserted that he consulted with the respondent on works over £250 per lessee and exhibited section 20 Notices of Intention dated 11 July 2007; 5 August 2008; 20 January 2017 and 27 July 2019. The applicant also requested the tribunal to vary the lease to specify an increase to the £25 per annum collectable in the lease as an advance towards service charges to be incurred and (ii) a direction from the court for the lessor to appoint a property management company that is binding on the lessee.
6. In oral evidence to the tribunal Mr Pittman told the tribunal that the lease does not make provision for managing agent's fees or accountant's fees but as the latter had been suggested by Ms Warmington they should be claimable.
7. Mr Pittman referred the tribunal to the section 20 Notices of Intention and accepted that no second Notices had been served on Ms Warmington because they are neighbours and he did not consider it necessary to do so. Mr Pittman was vague in his recollection as to how many quotes he had obtained for each of the works that were subject to section 20 Notices and was vague on the details of the sums paid. Mr. Pittman was also unclear in his evidence as to which wall at the rear represented the boundary wall and was unsure of the extent of his obligations to keep the boundary in repair. Mr Pittman recalled getting 2 or 3 quotes for roof/gutter works and showing them to Ms Warmington.
8. Mr Pittman told the tribunal that repairs had been carried out on an 'ad hoc' basis and that he had not been keeping to the terms of the lease. On questioning by the respondent Mr Pittman stated he had replaced the old paving because it was in a bad condition and a trip hazard and had installed two front metal gates to allow him access with his car.
9. On questioning by the tribunal Mr Pittman accepted that Ms Warmington had always paid her ground rent and her contribution to the buildings insurance. However, the spread sheet did not appear to accurately reflect these although

Mr Pittman asserted it had been prepared by a chartered accountant with the figures provided by himself.

10. Mr Pittman was also asked by the tribunal to clarify which boundary fence was included in the lease as the lease plan was missing from the copy lease provided in the hearing bundle. In answer to questioning Mr Pittman stated that he had assumed the fencing on the left hand boundary adjoining No. 36 was his responsibility to maintain and to which the invoices for works related.

### **The respondent's case**

11. In a Detailed Statement by Respondent dated 30 October 2020 Ms Warmington set out the reasons for disputing the applicant's claim for payment of service charges. Primarily among these objections were Ms Warmington's assertions that the new metal railings, the installation of a natural stone path with plant border, the redwood customised side gate with wrought iron railings above and reinforced timber fencing on the neighbour's boundary and on the opposite boundary were all works of improvement, charges for which could not be claimed under the terms of her lease.
12. Ms Warmington also challenged the applicant's claims for payment for works that exceeded her £250 contribution on the basis that these costs had not been certified by a Surveyor. Ms Warmington challenged her liability to pay the applicant a managing agent's fee of £300 per annum when he managed the property himself having purchased the freehold in 2001. Ms Warmington attached to her Statement a list of the correspondence between the parties in chronological order since 2007. Ms Warmington also queried whether all the payments that she had made had been properly and accurately reflected in the service charge accounts.
13. In her oral evidence to the tribunal Ms Warmington stated she believed the following works to be improvement and comprised; the installation of the steel railings at the top; the side gate' the front (metal) gate and the new paving in the front. These sums were not payable under the terms of the lease. Ms Warmington also stated that she was not liable to pay management or accountancy fees under the terms of the lease although did not 'mind' paying the latter.
14. On questioning by the tribunal Ms Warmington stated that she had always paid her Ground Rent and the buildings insurance contributions although the latter was sometimes paid late when an insurance schedule was not provided by the applicant and had in 2008 paid it twice by mistake.

### **The tribunal's decision and reasons**

15. The tribunal finds the following works are improvements and are not provided for under the terms of the lease;

Metal gate (2018).....£ 63.33  
Metal security rail (2018).....£116.67  
Paving (2018).....£291.67

**Disallow.....£471.67**

16. The tribunal finds that the following works are limited to £250 as the applicant failed to comply in full with the consultation procedures required by section 20 of the Landlord and Tenant Act 1985.

Major works carried out under Notice of Intention dated 11/07/07

Exterior decoration & extra paint ...£1,365.63

**Disallow.....£1,115.63**

Major works carried out under Notice of Intention dated 05/08/08

Front railings £360

**Disallow.....£110**

Major works carried out in 2018

Side gate.....£400.00

**Disallow.....£150.00**

17. The tribunal finds that the managing agents fees claimed by the applicant are for management he himself has carried out are not claimable although the lease provides in para 5 of The Schedule for the appointment of managing agents and the recovery of their fees.

**Disallow.....£3,600**

18. The tribunal is not satisfied that the works to the fence adjoining No. 36 fall within the description of the lease boundaries and the landlord's obligations as a lease plan was not provided and the applicant himself was unsure of his responsibility for which boundary. Therefore, the tribunal disallows the following sums which have been provided by the applicant in his spreadsheet (Appendix 1), Appendix 2 (updated statement) and Appendix 3 (items less than £250)

Luis Pardo rear fencing...(2008).....£493.33  
MTG fencing (2014).....£133.33  
TMG fencing concrete spurs (2020)..... ..£210.00  
Leo Palali alignment of fence (2020).....£213.33

**Disallow.....£1,049.99**

**Total disallowed.....£6,387.62**

19. The tribunal finds that all other sums are reasonable and payable including the accountants fees which the respondent expressly acknowledged to the tribunal she was willing to pay.
20. Therefore, the tribunal finds that the sum of £2,931.20 (£9,318.32 less £6,387.62) is payable by the applicant in respect of service charges for service charge covering the years 2007 to 2019 (inclusive) and up until 12 May 2020.
21. The applicant sought the tribunal's determination on matters that are not subject to this application (advance payments/variation and the appointment of a managing agent) and the tribunal therefore declines to do so.

**County court matters – decision by the tribunal judge sitting as a judge of the County Court**

**Claim fee, costs and interest**

22. As the applicant has been successful in part of his claim Judge Tagliavini sitting as a District Judge of the County Court allows the sum of £205 in respect of the claimant's (applicant) claim fee.
23. As the claimant (applicant) made no application for costs and has been largely unsuccessful in his claim Judge Tagliavini sitting as a District Judge of the County Court makes no order for costs.
24. The claimant (applicant) made an application for one year of interest at the rate of £1.91 per day. However, as the claimant has been largely unsuccessful no order for the payment of interest is made.
25. A separate County Court order, reflecting the decisions of the tribunal and of Judge Tagliavini as a Judge of the County Court is attached.

Name: Judge Tagliavini

Date: 25 January 2021

## **Rights of appeal from the decision of the tribunal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then 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 the capacity as a Judge of the County Court**

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 the 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.