



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

Case Reference : LON/OOAH/LSC/2022/0033

Property : Flat 2 , 28 Grasmere Road, Purley, CR81DU

Applicant : Srdan Mrvaljevic

Representative : In Person

Respondent : Assethold Limited

Representative : Mr Gurvitz

Tribunal Members : Judge Shepherd
Mr T Sennett MA FCIEH

Date of Determination : 6th September 2022

Determination

1. In this case the Applicant, Srdan Mrvaljevic (“The Applicant”) is seeking a determination as to the reasonableness and payability of service charges

pursuant to section 27A of the Landlord and Tenant Act 1985 (“The Act”). The Applicant is the leaseholder of Flat 2 28 Grasmere Road, Purley, CR81DU (“The premises”). The premises consist of a 3 bedroom flat in a purpose built block of flats. The Respondents, Assethold Limited are the freeholders of the premises. The Applicant's challenge is brought in relation to the service charge years 2021 and 2022. The total amount in dispute is £20,351.25. The Applicant is effectively acting on behalf of other leaseholders for whom he also applies for an order pursuant to s20C of the Act

2. The parties helpfully provided a Scott Schedule of all of the items in dispute between them. In summary the items in dispute were as follows:

2020-2021

- a. £380 - the cost of fitting a metal sheet to the wall as protection from damage by the door handle in the communal hallway. The Applicant said the cost was excessive.
- b. £400 - for repairing loose tiles in the garden which the Applicant says was to a poor standard.
- c. £750 – work to the artificial astroturf which the Applicant says was badly carried out.
- d. £180 - for a loose Bannister repair which the Applicant considered was an overcharge.
- e. £95 for a draught excluder which the Applicant considers was an overcharge as a draught excluder was not required.

- f. £180 for refitting a garden panel. The work was not completed according to the Applicant.
- g. £400 for gaps filled between flat doors, frames and walls. The Applicant questioned whether this work was done and if it was he says the cost was unreasonable.
- h. £750 for repainting the communal areas. The Applicants says that the tradesman did only 4 hours work and the works were not done properly and were incomplete.
- i. £146.25 for Key cutting – The Applicant says that the leaseholders did not get the keys.
- j. £240 -Accountant's fees – the cost was said by the Applicant to be inflated.
- k. £1000- Management Fee- The Applicant says that this cost was for only three month's work by the managing agent who took over in October 2000.
- l. £13.83 – for common parts electricity.

3. In 2021- 2022 the following sums were challenged:

- a) £3500- Insurance – the Applicant does not want to pay insurance in advance and would like to get their own quotes.

- b) £200 – common parts electricity – the cost is challenged as disproportionate as there are solar panels.
- c) £1500 – Common Parts cleaning – the Applicant claims the cleaner only came for 10 minutes.
- d) £450 – monthly testing of emergency lighting – the Applicant had obtained a quote for £350.
- e) £2400 – common parts gardening – the Applicant says this is an overcharge as the garden is Astro-Turf which does not need much maintenance.
- f) £500 – window cleaning – the Respondents have agreed to reduce the cost to £400 allowing for a £100 quarterly clean.
- g) £1500 – bin cleaning – the Applicant had obtained a quote for £75 plus vat per visit. The Respondents agreed to reduce the cost to £450.
- h) £1500 – surveyors fee for insurance assessment- the Applicant says that he had obtained a quote for £160 for an online assessment. The Respondents say that is inadequate.
- i) £438 – accountant’s fees- the Applicant obtained a quote for £200.

j) £450 – fire health and safety service – the Applicant had obtained a quote for £298.80 for a comprehensive assessment.

k) £2000 for the repair fund.

The hearing

4. The Applicant appeared in person and the Respondents were represented by Mr Gurvitz.
5. Mr Gurvitz said that there had been a site visit three months ago but he had not visited. He confirmed that nobody had carried out any inspection after the works to the wall plate. The Applicant said that the replacement of the loose tiles had not worked and the work could have been done for about £80. In relation to the Astroturf the Applicant said it was still in a bad state. Mr Gurvitz denied that the garden was sinking and bulking up the garden seemed like a good idea.
6. In relation to the loose banister the Applicant said the cost was disproportionate all that was required was the application of some silicon. It was not clear why the work was carried out at different times from other work and why the contractors had visited on different days. In relation to the draught excluder the Applicant said the cost was excessive. In relation to the repairing the garden panel, it transpired that in fact the garden panel was a railway sleeper and according to the Applicant it had not been repaired indeed this appeared to be the case from photographs. The Applicant claimed that the Respondent had charged £400 for filling gaps in order to prevent fire breaches.

7. In terms of the internal decorating it did appear that only half of the communal areas had been painted. According to the Applicant the painting was done in the dark and the ceiling was not painted. The decorator was there for two nights between 6:00 and 8:00 PM. Mr Gurvitz said the decorator had been asked to leave by one of the residents. Its not clear why another contractor was not appointed to finish the job.
8. Mr Gurvitz said that the key cutting cost was incurred when the Respondents took over the premises. The keys were required for contractors, cleaners etc. The Applicant said he can't get into the property with the keys without a fob and the cleaners came in with the fob.
9. In relation to the accountancy fees the Respondents took over the premises in October 2020 and there was a setting up phase according to Mr Gurvitz.
10. In relation to the management fees the Respondents charged £1000 for three months and £874.80 for the following year. Again, Mr Gurvitz said there were setting up costs - setting up ledgers, contracts etc in the initial year.
11. The common parts electricity cost was conceded by the Applicant.
12. In relation to insurance costs the Applicant questioned why the insurance had to be paid in advance. Mr Gurvitz said the value of the building was £1.1 million and the lease said that the Respondents could claim in advance.
13. In relation to the common parts electricity Mr Gurvitz said this was an estimate and was reasonable. Similarly in relation to common parts cleaning and common parks gardening he said these were estimates and the estimates were reasonable. The Applicant said that in the previous year the gardeners had only come twice. He also said there was no grass to cut.

14. The Applicant conceded the cost of window cleaning.

15. In relation to the cost of bin cleaning Mr Gurvitz said this was for tidying up after the bin men had been. The estimate was reasonable. As regards the survey for insurance purposes Mr Gurvitz again said it was an estimate for a proper evaluation and a desk top valuation was not sufficient for the first assessment.

16. Mr Gurvitz said the fire health and safety service costs were reasonable and involved testing fire alarms etc. He said it was of paramount importance to have fire safety in a building. Finally in relation to the repair fund he said it was a reasonable amount to estimate for the forthcoming year

The Law

17. The assessment of reasonableness of service charges under statute is made pursuant to s.19 of the Landlord and Tenant Act 1985:

19.— Limitation of service charges: reasonableness.

(1) Relevant costs shall be taken into account in determining the amount of a 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 the carrying out of works, only if the services or works are of a reasonable standard;

and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant

costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

[...]1[...]3[

(5) If a person takes any proceedings in the High Court in pursuance of any of the provisions of this Act relating to service charges and he could have taken those proceedings in the county court, he shall not be entitled to recover any costs.

18. The Tribunal's jurisdiction is covered by 27A of the Landlord and Tenant Act 1985:

Liability to pay service charges: jurisdiction

(1) An application may be made to [the appropriate tribunal]2 for a determination whether a service charge is payable and, if it is, as to—

(a) the person by whom it is payable,

(b) the person to whom it is payable,

(c) the amount which is payable,

(d) the date at or by which it is payable, and

(e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to [the appropriate tribunal]2 for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to—

(a) the person by whom it would be payable,

(b) the person to whom it would be payable,

- (c) the amount which would be payable,*
- (d) the date at or by which it would be payable, and*
- (e) the manner in which it would be payable.*
- (4) No application under subsection (1) or (3) may be made in respect of a matter which—*
 - (a) has been agreed or admitted by the tenant,*
 - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,*
 - (c) has been the subject of determination by a court, or*
 - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.*
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.*
- (6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—*
 - (a) in a particular manner, or*
 - (b) on particular evidence,**of any question which may be the subject of an application under subsection (1) or (3).*
- (7) The jurisdiction conferred on [the appropriate tribunal]² in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter. [...]*

Determination

19. Taking each item in turn the Tribunal determines that the following sums are due:

2020-2021

- a) Wall plate -the tribunal was surprised that only one plate had been applied when there are four doors affected by the problem of the door handle hitting the wall. The cost was considered excessive and the Tribunal will allow £95.

- b) Loose tiles - the work carried out was of poor quality and therefore the Tribunal will allow £80 which reflects that quality.

- c) Astroturf-the Tribunal considers that the ground had sunk and the Astroturf had been badly laid because the sand had not been compacted properly. Accordingly the Tribunal allows nothing for the cost of the works to the Astroturf.

- d) Works to the loose banister- these were largely decorative works and could have been carried out at lower cost. The Tribunal will allow £50.

- e) Draught excluder - this was installed when it was not required and therefore no sums are allowed.

- f) Repair to the railway sleeper-it did not appear that any works had been carried out and therefore no sums are allowed.

- g) Gaps between the fire doors- the Tribunal prefers the Applicant's account that no works were carried out and therefore no sums are allowed.

- h) Internal decoration-the photographs the Tribunal were shown illustrate that the quality of the work was poor and the job had not been completed accordingly no sums are allowed.
- i) Key cutting-the landlord is entitled to have keys cut for operatives etc and the sum is allowed in full.
- j) Accountant's – these sums are reasonable and are allowed in full
- k) Management fee- the Tribunal accepts that there would be set up costs and therefore allows the cost of £1000 .

2021-2022

- l) Insurance - the sum of £3500 pounds is allowed. The landlords are able to choose their own insurers.
- m) Common parts electricity - £200 is a reasonable estimate and is allowed.
- n) Common parts cleaning- the Tribunal accepts that £1500 pounds is a reasonable amount.
- o) Electricity costs- the sum of £450 pounds is accepted as reasonable.
- p) Common parts gardening the sum of £1200 pounds is allowed notwithstanding the fact there is no grass to cut.

- q) Window cleaning - the Tribunal considers that the estimated sum of £400 is reasonable.
- r) Bin cleaning - the Tribunal accepts that the sum of £450 is reasonable
- s) Survey fee for insurance- the Tribunal will allow £750.
- t) Accountants' fees-these are reasonable and are allowed in full.
- u) Management fees - these are reasonable and allowed in full.
- v) Fire health and safety - these sums are reasonable and allowed in full.
- w) Fire risk assessment- this was not properly explained and therefore no sums are allowed.
- x) Repair fund - it is prudent to collect sums for future repairs and the £2000 claimed is reasonable.

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20. The Application was justified and the Applicant conducted himself well in the proceedings. He was successful on many of the issues. The Tribunal will exercise its discretion to prevent the Respondents from recovering any costs incurred in these proceedings from any of the leaseholders at Grasmere Road.

6th September 2022

ANNEX - RIGHTS OF APPEAL Appealing against the tribunal's decisions

1. A written application for permission must be made to the First-tier Tribunal at the Regional tribunal office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.
3. 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.
4. The application for permission to appeal must state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers
5. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.