



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

Case reference : **MAN/00BY/LSC/2019/0099**

Property : **Flats 3 & 4, 3 Derwent Road West
Liverpool L13 6QP**

Applicant : **Mrs J Ritchie**
Applicant's Representative : **Mr M Ritchie**

Respondent : **3 Derwent Road West
Management Company Limited
(Not in attendance and not
represented at the hearing)**

Type of Application : **Reasonableness and payability of
service charges Section 27A
Landlord and Tenant Act 1985**

Tribunal Members : **Mr J R Rimmer
Mr A Hossain**

Date of Decision : **5th November 2022**

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Order : Subject to the observations in paragraphs 23 and 24 herein the service charges for the period 1st April 2015 to 31st March 2019 are reasonably incurred at reasonable cost according to the table in para 19

BACKGROUND

- (1) The Tribunal has visited this matter on a number of previous occasions in order to try to seek clarification of the complaints the Applicant seeks to make in relation to the service charges relating to the two flats owned by the Applicant at 3, Derwent Road West, Liverpool 13.
- (2) It has always been the Applicant's concern, as explained by her son and representative, that the service charges for those years were not reasonably incurred at reasonable cost. The concern was not with the Respondent itself, but with those appointed to manage the premises on behalf of the management company: a company known variously as Rebloom and Revolution Property Management Ltd (the former conceivably being a subsidiary, or otherwise connected with, the latter).
- (3) Although the matter had previously been set down for hearing the Tribunal accepted that Mr Ritchie may have been confused by, or misunderstood previous directions given in the matter and was allowed an opportunity to adjourn the matter to provide such further response to the respondent's case as he saw fit.
- (4) Since that earlier hearing the services of the managing agents have been dispensed with and the Applicant and Mr Ritchie, on his mother's behalf, have engaged in positive communication with the Respondent, but remain concerned as to the historic service charges that have been incurred.
- (5) Notwithstanding progress on the one hand and with there being remaining concerns on the other, Mr Ritchie asked the Tribunal to continue with its deliberations in the absence of the Respondent, which had notified the Tribunal of its non-appearance. He wished the Tribunal to proceed to determine the issues raised by him.
- (6) There appeared to be a consensus now that previous determinations in the County Court in respect of charges for Flat 3 in the 2018-19 year and for Flat no 4 in relation to 2017-18 precluded the Tribunal's consideration of them, although the charges for those years remain relevant in so far as there might be a need to calculate further charges in relation to the other flats owned by the Applicant in the

relevant years. See paragraph 13, below.

Submissions

7. The Tribunal will say from the outset that Mr Ritchie, although clear as to his concerns as to the extent of the service charges levied in respect of 3-4 Derwent Road West, was somewhat vague as to the manner in which they appeared to be excessive and was generally limited in the evidence that he was able to adduce.

8. His particular concerns were, firstly, the extent of the insurance premiums charged in respect of the building, those not being consistent with what He considered would be reasonable in Aberdeen, where he lives, and not, apparently, being incurred after obtaining any competitive quotations from other potential providers. Such evidence as he was able to produce was not clearly relating to like for like cover in respect of like for like properties.

9. Management, in respect of both the charges levied and the service provided was also concerning, given what Mr Ritchie perceived as failures to deal with basic issues arising at the property, particularly referencing the time taken to effect roof repairs where a leak had left him unable to sub-let one flat for a considerable time, together with the general state and condition of the premises.

10. He did clarify his position to some limited degree by providing a spreadsheet of those elements of the charges for 2016 to 2019 with which he was most concerned, but again the Applicant failed to produce any direct evidence to support the contention that charges were unreasonable, seeking instead to require proof from the managing agents that they had incurred the charges in a reasonable manner at reasonable cost.

11. The Respondent, through its then solicitor at the earlier hearing, in turn put the Applicant to proof in respect the suggestions made of unreasonableness, indicating its further view that the issues raised in respect of the charges levied lacked any significant evidence to support them and in the absence of such evidence the Tribunal should consider the charges were reasonable.

12. The starting point was that there was no issue the as to the charges being recoverable under the lease. In this respect the leases for both Flat 3 and Flat 4 are in identical terms. The services for which charges are recoverable are set out in the First Schedule to the leases and the landlord covenants to provide those services. The costs of such are recoverable by way of being reserved as the second element of the rent in respect of which the Tenant enters into a covenant to pay in Clause 3(1) of the lease via the mechanism provided by the Third Schedule.

13. It is clear in the earlier interim determination by this Tribunal that there have been previous County Court proceedings by the Respondent to recover the service charges for Flat 3 for the year 2018-19 and for Flat 4 for the year 2017-18 that have been concluded by judgement in favour of the Respondent. Those service charge costs cannot be the subject of a further determination by this Tribunal by virtue of Section 27A(4) Landlord and

Tenant Act 1985 which provides

No application under subsection (1) or (3) may be made in respect of a matter which –

(a)...

(b)...

(c) has been the subject of a determination by a court

14. In respect of those service charges that remained to be considered, it was unfortunate that there was no appearance before the Tribunal for, or on behalf of, the Applicant that would have assisted the Tribunal to resolve issues raised by the Applicant and assisted the further enquiries of the Tribunal.

The Hearing

15. The Tribunal attempted to distill with Mr Ritchie the essential elements of his concerns and it became apparent that dialogue was taking place between the parties in the absence, now, of intervening managing agents and there was some reluctance on Mr Ritchie's part to seek to blame the Respondent for what he perceived as the shortcomings of the managing agent in dealing, either in a timely, or otherwise appropriate manner, with difficulties in respect of the building.

16. It also became apparent, in looking as a whole at the charges for the years under consideration that there was a lack of clarity as to why the amount of charges demanded appeared greatly to exceed the amounts actually expended in the relevant year. The Tribunal therefore sought to obtain from Mr Ritchie the demands he had received for the years in question whilst considering those matters to which he had drawn to the attention of the Tribunal, bearing in mind that it was looking at the reasonableness of what had actually been expended, rather than possible potential alternative expenditure, or extra expenditure that might have improved the standard of the accommodation.

17. Unfortunately, Mr Ritchie was unable to provide that information in the timescale provided by the Tribunal and it is therefore impossible to assess the impact, or otherwise, of that situation upon his perception of the unreasonableness of the service charges.

18. The Tribunal was able to consider at some length with him the invoices/receipts that had been submitted in the bundle provided by the Respondent's former solicitors and the agent, together with the accounts provided for the Respondent for the period from 1st April 2015 to 31st March 2019.

Determination

19. Insofar as the Tribunal is concerned with the actual expenditure in the years under consideration it is able to say that much of the expenditure is clearly reasonably incurred at reasonable cost if the stated accounts of the Respondent are taken at face value. The

Tribunal could see nothing in what was suggested by the Applicant that would seriously challenge that conclusion.

20. To provide a clear analysis of what it found the Tribunal sets those accounts out, as found in the Respondent's bundle at page 60 onwards, in a slightly amended form, below; the Tribunal notes that the amount spent under the head of insurance represents two years' premiums and a valuation fee of £1,200.00. the average premium being £1025.50 for each year.

	May -16	May-17	May-18	May-19
Management	625.00	392.00	693.00	900.00
Added management			33.00	58.00
Insurance	3251.00		973.00	1027.00
Insurance revaluation	1200.00*			
Light & heat	175.00	(350.00)		
Cleaning	590.00	724.00	756.00	640.00
Repairs & maint.	1194.00	345.00	5755.00*	605.00
Accountancy	900.00	120.00	240.00	240.00
Directors' insurance		138.00	140.00	125.00
Sundry exps		(145.00)	40.00	39.00
H&S assessment			420.00	
Statutory costs			438.00	514.00
Arrears chasing fees			5.00	
Legal & professional		1200.00*		90.00
Bank charges				9.00
Totals	6910.00	2424.00	9493.00	4247.00

21. Those amounts are, from the Tribunal's viewpoint largely reasonable and appropriate for the nature of the property under consideration: a single block containing 4 flats.

22. There are however a number of matters that concern the Tribunal some of which arise directly from the matters raised by the Applicant and others from further consideration of matters subsequently identified from consequential examination of expenditure in the relevant years.

23. the Tribunal is of the view that there appears to be a striking similarity between the insurance revaluation cost in the year to May 2016 of £1200.00 and the subsequent appearance the following year of the same amount, this time within the head of "legal and professional". Only the latter is vouchered as a survey fee for a site condition report. The former is not vouchered at all. The Tribunal would therefore disallow the amount in the May 2016 accounts, in so far as they related to the proportion relevant to the Applicant's properties.

24. Repairs and maintenance for 3 of the 4 years appear to be relatively consistent and considerably lower than the amount appearing as expenditure under this head in the year to May 2018. A greater amount is vouchered for that year, in an amount of £5755.00. the vouchers provided amount to £4508.48 for relevant items, provided in pages 126 to 149 of the bundle of documents supplied by the Respondent. The Tribunal is of the view that where a considerable variation in expenditure occurs it is incumbent on the managing agents to voucher them fully. The Tribunal would disallow the balance £1246.42 from the charges claimed (but noting that in respect of Flat 4 there has been a previous decision of the County Court).

25. The Tribunal then has some difficulty in reconciling what are costs in relation to company management in the form of mailboxes, Companies House compliance and provision of a registered office address with amounts shown in the accounts for the years to May 2018 and 2019, but the amount attributable to the service charge appears less than the amount supported by invoices. The invoice from Liverpool City Council for £312.00 (page 149 of the bundle) is a complete mystery and the Tribunal cannot see where it is reflected in the account for the May 2018 year and it appears not to have been taken into account as a service charge.

26. Subject to the observations in paragraphs 22 and 23, above the evidence adduced by the parties suggests that the service charges for the years in question are reasonable.

Tribunal Judge : J R RIMMER
05 November 2022