



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

Case Reference	:	CAM/00MC/LSC/2018/0063
Property	:	Royal Court, Kings Road, Reading, Berkshire RG1 4AE
Applicant	:	Mididol Limited
Representative	:	Chrisaliz Management Services Limited, managing agents for the Applicant (Mr J Shannon) and Mr F Bizzari, director
Respondent	:	The Leaseholders at Royal Court as referred to in the application
Representative	:	Mr M S Hora and Mr J Hadap together with Mr V Tandon and Mr D Livingstone
Type of Application	:	Liability to pay service charges and/or administration charges
Tribunal Members	:	Tribunal Judge Dutton Mr D Barnden MRICS Mr A Kapur
Date and venue of Hearing	:	Reading Tribunal Centre, Reading 29th January 2019
Date of Decision	:	4th February 2019

DECISION

Decisions of the tribunal

- (1) The tribunal determines that the estimated service charge for the period June 2018 to June 2019, in the sum of £66,041.00 is reasonable and is payable by the lessees in accordance with the provisions of their respective leases.
- (2) The tribunal determines that the Respondents shall pay the Applicant £300 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicant.

The application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) as to the amount of service charges payable by the Respondents named in the Application in respect of the estimated service charge for the year 2018/19 in the sum of £66,041.00.
2. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

3. The Applicant appeared through Mr Shannon and Mr Bizzari. The Respondents had not nominated any party to act for them as group. The Respondents named on the front page of this decision attended. Mr Singh Hora and Mr Hadap were the main advocates for the Respondents

The background

4. The property which is the subject of this application is a 6 storey building containing 35 flats, car parking, lifts and commercial space at lower ground floor.
5. We inspected the property before the hearing and our inspection notes are referred to below.
6. The Respondents holds a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease will be referred to below, where appropriate.

Inspection

7. We inspected the property in the company of the Applicants representatives, Mr Hora and others. The property is in a tired condition. At the car parking levels are signs of water ingress. The lifts are in reasonable order and working satisfactorily at the time of our inspection. The common parts are in need of attention and need decorating. The carpets appear to be reaching the end of their life. There is evidence of water ingress at the top floor of the property. The balconies, of which there appear to be 15, are in poor order and it appears that all are suffering from water damage. The external concrete is in poor condition.

The issues

7. At the start of the hearing the parties identified the relevant issues for determination as follows:
 - (i) The payability and/or reasonableness of estimated service charges demands for the year 2018 - 2019.
8. Having heard evidence and submissions from the parties and considered all of the documents provided, the tribunal has made determinations on the various issues as follows.

Anticipated service charge expenditure 24th June 2018 to 23rd June 2019

9. At the hearing we were supplied with the actual accounts for the year ending June 2018. These showed that the sums expended on services for that year was £77,523. Although the budget for the year 2018-19 was issued before these accounts were produced it claims £66,041, based on the year ending June 2017 when the 'actuals' were £59,469. On the face of it the budget did not appear excessive.
10. The lease allows the recovery of an interim charges as set out in the Sixth Schedule at paragraph (3) onwards, such sums to be paid by equal half yearly payments in June and December.
11. The witness statement of Mr Shannon gives a detailed explanation of the budgeted costs.
12. None of the Respondents who attended challenged these costs at the hearing and it appeared that most lessees had paid their due percentage. As with the previous decision in case **CAM/OOMC/LSC/2017/0092** dated 22nd January 2018 they remained unhappy with the management of the Property and some of the costs incurred in previous years. However, it was accepted by the attending leaseholders that the budget was reasonable by reference to

previous years actual costs and it was on that basis that they agreed that any challenge be withdrawn.

13. However, it does not do justice to the Respondents valid concerns in relation to the continuing management of the property and the state of repair. It was accepted by Mr Shannon and Mr Bizzari that work was needed and in some cases urgently. They accepted that there was work required to the windows, the roof to the building, the balconies and a decorative overhaul of the exterior and the common parts. In so far as the windows are concerned legal advice should be sought on the ability of the Applicant to undertake works of replacement and charge this to the leaseholders. All would take a substantial sum of money but, regrettably, there is no reserve fund. Instead such monies as there were have been used to cover overspends in previous years.
14. The Respondents indicated that they accepted that monies would be required but there was a lack of confidence in the management of the property, not helped, it would seem, by the fact that Mr Shannon is based in Bromley. It is for the Respondents to consider what steps might be taken in respect of the management of the property.
15. It appears that nothing has improved since our decision a year ago. If the leaseholders wish to challenge the sums expended they would be better served by reviewing the actual costs incurred, they now having accounts for the years ending June 2017 and 2018. This we raised in our previous decision. They took a pragmatic approach to the estimated service charge demand for the year ending June 2019, accepting that any reduction in same is going to impact on the monies available for the present years actual costs.
16. It is essential that the management of building grasps the works that are required. A planned maintenance programme would assist. None presently exists. This would give the lessees some assurance as to the future and proper funding could be put in place by way of major works consultation and realistic contributions to the reserve funds. 5% of the budget, £2,395 in the present year is, in our opinion, woefully inadequate.
17. At the end of the hearing, the Applicant made an application for a refund of the fees that he had paid in respect of the application/hearing¹. Having heard the submissions from the parties and taking into account the determinations above, the tribunal orders the Respondents to refund any fees paid by the Applicant within 28 days of the date of this decision.

¹ The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 SI 2013 No 1169

Name: Tribunal Judge Dutton

Date: 4th February 2019

ANNEX - RIGHTS OF APPEAL

1. 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.
2. 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.
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 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.

Appendix of relevant legislation

Landlord and Tenant Act 1985

Section 18

- (1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
 - (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
 - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose -
 - (a) "costs" includes overheads, and
 - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

- (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 provisions 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.

Section 27A

- (1) An application may be made to a leasehold valuation tribunal 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 a leasehold valuation tribunal 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.