



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

Case Reference : CHI/00HN/LSC/2018/0105

Property : 91 Admirals Walk, 30 West Cliff Road,
Bournemouth BH2 5HH

Applicant : Miss Cara Spencer

Representative : -

Respondent : Admirals Walk 2000 Limited

Representative : Lacey's Solicitors

Type of Application : Determination of service charges: section 27A
Landlord and Tenant Act 1985

Tribunal Member : Judge Tildesley OBE

Date of Directions : 15 February 2019

DECISION

Background

1. The Applicant sought a determination of the service charge she is liable to pay for service charge years 2016-17 and 2017-18.
2. The Applicant also sought an order for the limitation of the Respondent's costs in the proceedings under Section 20C of the 1985 Act and/or paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.
3. The application sets out a number of questions but it was unclear precisely which costs are disputed by the Applicant, and whether some of the issues raised were within the jurisdiction of the Tribunal.

Hearing

4. On 11 December 2018 directions were issued to hold a case management hearing by telephone which took place on 15 February 2019. The Applicant attended in person. Mr Mark Timberlake of Lacey Solicitors represented the Respondent.
5. Mr Timberlake had prepared a position statement which dealt with some of the Applicant's questions. Mr Timberlake confirmed that Miss Spencer's ownership of the property was subject to a lease dated 27 April 2000 which was on the same terms of the original lease dated 10 May 1972 and made between Jervis Property Company Limited of the one part and Margaret Rogers of the other part. The original lease provides for payments on account and balancing payment but does not provide for further special levies.
6. At the hearing Miss Spencer identified that her grievances were with her contributions of £4,280.49 made on two separate occasions after the end of the financial year ended 25 March 2017. The Tribunal was satisfied that under the terms of the lease the Respondent was entitled to demand balancing payments due after the accounts had been duly certified. Miss Spencer seemed to be under the mistaken impression that she was not liable to contribute to the costs of works carried out in pursuit of the landlord's repairing covenant, if those costs had been collected by means of a special levy under the terms of the leases which applied to the majority of the leaseholders at Admirals Walk.
7. Miss Spencer expressed concerns about the accuracy of the accounts and being audited by a Chartered Accountant who was regularly used by the managing agent. The Tribunal went through the terms of the lease for the preparation of accounts with Miss Spencer which demonstrated that the Respondent had complied with the lease requirements.
8. The Tribunal pointed out that the issue regarding Miss Spencer's liability to pay for costs incurred in suing the contractors over the balcony project

was the subject of a substantive application brought by the Respondent against all leaseholders and due to be heard shortly by the Tribunal.

9. The Tribunal advised Miss Spencer that it was minded to strike out her application on the ground that there was no reasonable prospect of the Applicant's case or part of it succeeding. The Tribunal gave Miss Spencer an opportunity to make written representations within 7 days. Miss Spencer declined the offer. The Tribunal adjourned the hearing for 15 minutes to enable Miss Spencer to consult with Dr Cooper who was present with her.
10. On resumption of the hearing Miss Spencer stated that her principal concern was with the accuracy of the accounts. The Tribunal explained that this did not fall within its jurisdiction. The Tribunal said her remedy was to require the landlord to afford her reasonable facilities for inspecting the accounts receipts or other documents under section 21 of the 1985 Act provided she made such a request within six months of obtaining the summary of relevant costs. The Tribunal pointed out that it was summary offence for a person to fail without reasonable excuse to perform with any duty imposed under section 21. The Tribunal also informed Miss Spencer to contact LEASE about her rights to demand further information about the accounts.

Decision

11. The Tribunal struck out the Application on the ground that there was no reasonable prospect of the Applicant's case or part of it succeeding. The Tribunal made no order for costs.
12. The Tribunal notes that it is not necessary to make an order under Section 20C of the 1985 Act because there is no provision in the lease for the landlord to recover the costs of these proceedings through the service charge.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.