



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

Case Reference : **MAN/00CX/LSC/2018/0041**

Property : **Flats 205, 301 and 309 Landmark House, 11 Broadway, Bradford, BD1 1JB**

Applicant : **Ms Rehana Noorul-Ameen**

Respondent : **Broadway (Bradford) Management Company Ltd**

Type of Application : **Section 27A Landlord and Tenant Act 1985**

Tribunal Member : **(Judge) Mr Phillip Barber;
(Valuer) Ms Jenny Jacobs**

Date : **29 March 2019**

DECISION AND REASONS

Decision

That the service charge payable for the service charge years 2011 through to 2019 as set out in the application and service charge accounts provided to the Tribunal are reasonable and payable.

1. On the 05 September 2018, the Tribunal received an application for a determination as to the payability and reasonableness of the service charge for the properties listed as apartments 205, 301 and 309 Landmark House, 11 Broadway, Bradford BD1 1JB (“the flats”).
2. The applicant is Ms Rehana Nooral-Ameen the owner of the flats and the respondent is Broadway (Bradford) Management Company Ltd, the management company. Other than sign the application, the applicant has taken no part in the proceedings but has been represented throughout by Mr Kwaja Noorul-Ameen, her father. The respondent has been represented throughout by Hunters Residential Block Management, the managing agents.
3. The Tribunal held a case management conference on the 12 October 2018 in order to narrow down the issues and clarify which particular aspects of the service charge, the applicant contended were not payable. The case management conference resulted in a number of directions, including the provision of accounts and copies of all agreements and contracts. The Tribunal were satisfied that the documents provided by the respondent were sufficient to comply with the terms of the Directions Order. Mr Nooral-Ameen contended that the respondent had failed to produce everything directed but we thought there was no substance to this claim. In any event, as Mr Thompson of Hunters pointed out, every opportunity had been given to the applicant to attend their offices and go through the files for the block. She has not done so.
4. Thereafter, in the Directions Notice, the applicant was directed to indicate in a further document, expressly which aspects of the service charge she contends were either unreasonable or not payable. That document is headed “APPLICANT’S REPLY TO RESPONDENTS SERVICE CHARGE STATEMENTS”.
5. Unfortunately, that document does not clarify the position of the applicant to any significant extent but on closer inspection and after hearing from Mr Nooral-Ameen, it transpires that the complaint fits in to the following categories:
 - a. The service charge is generally extortion and racketeering on the part of the respondent;
 - b. Expenditure is concealed so that re-imburement of leaseholders does not take place;
 - c. Window cleaning has been budgeted for but has not occurred;
 - d. There are discrepancies in the budgets when compared to the expenditure – for example, the lifts; pump maintenance and Legionella tests;

- e. Some of the paperwork (for example MSL Pumps) is not on headed notepaper giving rise to an element of suspicion on the part of the applicant; other paperwork is missing, which is “suspicious”.
- f. The salary of the concierge is too high;
- g. Works were carried out to the pump too early after it was installed (i.e. Mr Nooral-Ameen claims that it should not have needed de-greasing so soon).

The Inspection

- 6. We inspected the common parts of the development at 9.30am on the day of the hearing. Nothing significant arises from this. The property is a block of apartments in central Bradford. A significant number of apartments are occupied by sub-tenants of the leaseholders. The property is subject to 24-hour fire watch and has, in the past (if not currently) been subject to anti-social behaviour from residents and intruders. There is an enclosed area to the rear of the property. At one point in the stairway, there was evidence of extensive damp on the wall. At the entrance to the block, the concierge has a small office and is present continuously. There are two lifts and the block is some 7-storeys high.

The Law

- 7. The law is contained in sections 18 and 27A of the Landlord and Tenant Act 1985 as follows:

18.— Meaning of “service charge” and “relevant costs”.

(1) In the following provisions of this Act “*service charge*” means an amount payable by a tenant of a [dwelling] ¹ as part of or in addition to the rent—

(a) which is payable, directly or indirectly, for services, repairs, maintenance [, improvements] ² 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.

27A 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.

8. Accordingly, our powers are limited to determining the reasonableness and payability of the service charge under the terms of the applicant's leases. There was no dispute that the applicant is liable to make payments in respect to the service charge and that the proportion as calculated were in accordance with the terms of the lease. The issue for the Tribunal, therefore was whether the amounts were reasonable and payable as set out in the various service charge demands.

Findings of Fact in Relation to the Issues in the Application

- 9. The respondent provided various accounts and demands for the various years in issue in their bundle of documents. Each of those statements of accounts sets out the various items which comprise of the service charge under headings such as "Electricity"; "Refuse Collection" and "Management Fees". We considered each item of expenditure in each accounting year and found that there was nothing which we could identify as being either unreasonable or not payable. Generally, and in our expert view, Hunters is doing a very good job in managing this block at reasonable cost to the leaseholders.
- 10. There is accordingly, therefore, no substance to the applicant's general allegation that the respondent is "racketeering".
- 11. In relation to the matters specifically raised by the applicant we found as follows:
 - a. The service charge is not extortionate and there is no evidence of any racketeering. In particular, we thought the service charge was reasonable and had been kept to a minimum by Hunters, using their experience as managing agents to manage a difficult block of apartments;
 - b. There is no evidence that any expenditure is concealed and in fact Hunters have offered on frequent occasions to allow Mr

Nooral-Ameen access to all of the files relevant to the service charge at the property at their offices, which he (and his daughter) have failed to take up;

- c. Window cleaning does appear in the budget but the funds budgeted for window cleaning have been used for other things. This is a complex and difficult to manage block of apartments and whilst it is perfectly proper for the respondent to budget for cleaning windows, it is also perfectly proper for it to spend the funds on other more urgent things. There is nothing sinister or unreasonable about this.
- d. Again, the discrepancies between the budget and actual expenditure demonstrate nothing sinister. Unfortunately, it appears that either the applicant or her representative have a misunderstanding about how accounts work. It is not the place of the Tribunal to advise them on the difference between a “budget” and an “account” but any discrepancy in the amounts shown on the budget and the amounts actually spent in each service charge year do not indicate anything unreasonable or not payable. All of the accounts were prepared by Chartered Accountants.
- e. All of the paperwork provided to the Tribunal is in order. Mr Nooral-Ameen complained that some of the paperwork is “suspicious”. His example was that page 169 was not on headed notepaper and does not include details of the works required. However, when we turned to page 169 in the respondent’s bundle, it was on headed notepaper (quite clearly) and does provide details of the works required (deep cleanse and degrease). Mr Nooral-Ameen also pointed to page 186 as evidence of nefarious behaviour on the part of the respondent (the address is wrong) but we were satisfied that this was just a mistake in the quote from Schindler Ltd.
- f. The salary of the concierge is high for part of the period as the old concierge went off sick and had to be paid in addition to a “stand-in” concierge. As well as this, the respondent has increased the hours to include Friday and Saturday night to accommodate on-going issues with prostitution at the block which it is necessary to monitor. The respondent has now employed an outside contractor to provide concierge facilities as the previous concierge has now retired. There is, therefore, nothing unreasonable or not payable about the concierge costs.
- g. In relation to the works on the pumps, we are satisfied on the basis of the evidence that it was necessary for the works to be carried out and in our expert view, the cost is both reasonable and payable.

12. Other than the above, it was not clear what other aspects of the service charge the applicant specifically had a problem with but perusing the accounts for each of the years, there was nothing which appeared to us to be unreasonable or excessive.

Conclusion

13. In summary, this was a hopeless and expensive application and one which has probably only served to increase the service charge costs for all of the residents at the property as we anticipate Hunters will, quite reasonably, charge for their time responding to this application.
14. We could see no basis at all for any of the allegations brought by the applicant and we would urge her to think carefully before pursuing a wide ranging and general claim of this nature again without first taking the opportunity to visit the Managing Agents and go through the paperwork with them.
15. We are therefore satisfied that the works identified in the various service charge demands and schedules contained within the bundle of documents are reasonable and payable.

Phillip Barber

Judge of the First-tier Tribunal

07 May 2019