



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

Case reference : **LON/00BA/LSC/2019/0226**

Property : **Apartment 20, 14 East Road,
London SW19 1UY**

Applicant : **James Ridout**

Respondent : **CM (Wimbledon) Co Ltd**

Representative : **Ringley Law LLP**

Type of application : **Liability to pay service charges**

Tribunal : **Judge Nicol**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of Directions : **18th July 2019**

STRIKE-OUT OF APPLICATION

The Tribunal has determined that it does not have jurisdiction to consider the issues raised in the application and so it must be struck out.

Reasons

1. The Applicant is the lessee of the subject property. The other parties to the lease are the freeholder, Fairhold Apollo Ltd, and the management company, Connolly Mews Residents Association Ltd.
2. The subject property is located on an estate. The maintenance of the estate grounds appears to be the responsibility, at least in part, of the Respondent pursuant to an agreement with the original freeholders. The Respondent holds no superior interest in relation to the subject property and has no direct contractual relationship with the Applicant. Nevertheless, the Respondent demanded from the Applicant a

contribution to the maintenance of a private road on the estate and it is this charge which the Applicant seeks to challenge by his application to this Tribunal.

3. The Tribunal held a case management hearing on 18th July 2019. It was attended by the Applicant and by Mr Samuel of the Respondent's solicitors. Mr Samuel asserted that the Applicant's neighbours and predecessors-in-title had paid the charges, although some other neighbours have also disputed them. He pointed out that there is express reference in the Applicant's lease to the Respondent at clause 4.36.
4. However, clause 4.36 only refers to the power of the Lessor to require the Lessee to become a member of the Respondent company. There appears to be no requirement under the lease for the Applicant to pay the Respondent's charges, either directly or via the Lessor or the management company. On the basis of what it has seen, the Tribunal does not understand the basis on which the Applicant may be liable for the Respondent's charges.
5. The Applicant seeks a determination as to the payability of the Respondent's charges under section 27A of the Landlord and Tenant Act 1985. However, section 27A only covers "service charges" as defined under section 18. Section 18(2) makes it clear that the costs which result in the service charges are those incurred by or on behalf of the landlord or a superior landlord in connection with the matters for which a service charge is payable. The application fails on two bases:
 - a) The Respondent is not a landlord or superior landlord and is not acting on behalf of one.
 - b) The services for which charges may be made under the lease do not appear to include those provided by the Respondent.
6. Therefore, this dispute does not come within the Tribunal's jurisdiction under section 27A because the charges do not come within the definition of "service charges".
7. Mr Samuel asked if the Applicant would have had the same problem if he had sought to challenge the charges as administration charges under Schedule 11 of the Commonhold and Leasehold Reform Act 2002. However, the Respondent's charges do not fall within the definition of "administration charge" in paragraph 1(1) of Schedule 11.
8. The Tribunal not having jurisdiction, the application must be struck out under rule 9(2)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. The Tribunal explained to the parties that this did not mean they did not have a remedy, merely that it was not be found in this Tribunal. The Tribunal recommended that the parties both sought legal advice.

9. The Tribunal's concern as to jurisdiction had not been raised with the parties prior to the case management hearing. The Tribunal explained to the parties that, if they thought the Tribunal was wrong in relation to jurisdiction, they could apply for permission to appeal and/or a review.

Name: Judge Nicol

Date: 18th July 2019