



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

Case Reference : CHI/24UJ/LSC/2019/0006

Property : 20 Pyrford Gardens
Belmore Lane
Lymington
SO41 3NR

Applicant : John Cooper Wadsworth
Shirley Maureen Wadsworth

Representative :

Respondent : Peter James Hall
Pauline Ann Hall

Representative : Richard James Management Co

Type of Application : Service Charges
Order preventing the Landlords from
recovering their costs of these proceedings
through the service charge

Tribunal Member(s) : Mr D Banfield FRICS

Date of Decision : 23 May 2019

FINAL DECISION
To be read in conjunction with the Interim Decision dated 17 April 2019

The Tribunal determines the Applicants' total liability for service charges are:

- **2015 £2,144.27**
- **2016 £2,142.19**
- **2017 £2,270.92 and;**
- **No further repayment is due**

Background

1. The Tribunal issued its Interim Decision on 17 April 2019 and also made further directions;
 - By 1 May 2019 the Respondent will send to the Tribunal and to the Applicants;
 - Copies of the service charge accounts for 2015, 2016 and 2017
 - Confirmation that “Net Expenditure” only includes those items listed in the Fifth Schedule.
 - Confirmation that no other charges have been levied on the Applicants.
2. Appended to a letter from Richard James Management dated 26 April 2019 was an explanatory letter from John Gray & Co of the same date and copies of the service charge accounts requested. The letter also confirmed that “Net Expenditure” only included items listed in the Fifth Schedule and that no other charges, or levies have been made on Flat 20.
3. In a response from the Applicants dated 14 May 2019 they confirm that for 2015 they met their obligation to pay £2,400. Included in the service charge was the management fee payable by the other tenants (£390 each) which was also charged to them subject to a refund in the light of their fee being £96.32. The difference which they said to be £307.68 should be refunded however only £255.73 has been received leaving a shortfall which they said to be £41.95.

Decision

4. The Applicants do not challenge the evidence provided by John Gray & Co save that a further sum of £41.95 is due for 2015. Their calculations are set out in paragraph 3 above.
5. The methodology used by the Applicants is flawed. The refund due to them is the difference between what they have paid (£2,400) and what they are obliged to pay, being the sum of 1/22nd of total expenditure less £390 management fee (£2,050.95) plus 4.55% for their management fee (£93.32). This gives a total due from the Applicants for 2015 of £2,144.27. As they have already paid £2,400 the refund due is £255.73.

6. As indicated at paragraph 3 above this sum has been paid and nothing further is therefore due.

Costs

7. The Applicants seek an Order under Section 20C Landlord and Tenant Act 1985 preventing the Respondent placing any of their costs of these proceedings onto the service charge.
8. Whilst the outcome of proceedings does not necessarily determine whether such an order be made, in this case where the Applicants have been wholly unsuccessful it would not be equitable for the Tribunal to order the Respondents to bear their own costs. For this reason, I decline to make the order requested.

D Banfield FRICS
23 May 2019

Appeals

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.