



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

**Case Reference** : **CHI/00MR/LIS/2019/0032**

**Property** : **136 Lumsden Road,  
Southsea, PO4 9LR**

**Applicant** : **Jupiter Contracts Limited**

**Representative** : **Berlad Graham LLP**

**Respondent** : **Francis Yungo-Hok**

**Type of Application** : **s.27A '85Act**

**Tribunal** : **Judge D Dovar**

**Date of Decision** : **17<sup>th</sup> October 2019**

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**DECISION**

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1. This an application under s.27A of the Landlord and Tenant Act 1985 for the determination of the payability of service charges in respect of the Property for the years ending 2013 through to 2019.
2. Directions were given by the Tribunal at a telephone case management hearing at which the parties confirmed that they were content for this matter to proceed to a determination without a hearing. The directions included a requirement that the Respondent give 'full reasons why the amount is disputed' and 'the amount, if any, the tenant would pay for that item'.
3. As part of their Statement of Case, the Applicant provided the yearly invoices, which set out the various cost headings which comprised the total cost claimed.
4. The Respondent has set out his objections to payment in his Statement of Case. The totality of the objections being that:
  - a. The building insurance has not been shown to him and he has been provided with no information in that regard;
  - b. Despite requests, no audited accounts have been provided;
  - c. He has queries over various service charge items contained in the invoices, being:
    - i. What 'access control and maintenance' is;
    - ii. What area 'block clearing and materials' relates to;
    - iii. He has seen no sign of any 'general repair and maintenance';

- iv. He has not seen any 'roofing' work done;
  - v. He queries why health and safety checks are carried out annually;
  - vi. He has never seen any tree surgery taking place;
  - vii. He does not know what 'waste' is disposed of each year;
  - viii. He does not know what 'drains' relates to, nor the sewage pumping station maintenance cost;
  - ix. What is 'labourer' cost?
5. In response, the Applicant points out that:
- a. The Applicant has not paid any service charge since 2012;
  - b. Has never raised any of these queries before;
  - c. He does not state which year the challenges relate to.
6. The Tribunal does not consider that the Respondent has properly adhered to the directions. There are sparse challenges to 7 years of service charge demands. It is notable that not all the costs claimed are challenged and yet the Respondent has not paid any service charges. Particularly given that the parties had agreed to have the matter determined without an oral hearing it was incumbent on the Respondent to properly detail his challenges, rather than raise what does appear to be a speculative attempt to avoid payment.

7. Most if not all of the challenges simply raise questions rather than assert a positive case that a sum has not been incurred, or is unreasonable in amount or the standard of work was poor. For example, the fact that it is said that the Respondent has not seen any tree surgery taking place, is not a positive assertion that none has taken place. Likewise with the claims that he has not seen any general maintenance or repair. Therefore even if taken at face value, they do not actually make out a positive case that sums are not payable or not payable in full.
8. Accordingly, in the absence of any proper detail of his case, the Tribunal determines that the service charges demanded by the Applicant are payable in full.

JUDGE D DOVAR

## **Appeals**

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.

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.

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.

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.