



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY) &
IN THE COUNTY COURT AT
ROMFORD, sitting at 10 Alfred
Place, London WC1E 7LR**

Tribunal reference : **LON/00BB/LSC/2019/0371**

Court claim number : **F57YJ768**

Property : **Flat 14, Castle House, Castle Road,
Romford, RM9 4XW**

Applicant/Claimant : **Gateway Holdings (NWB) Ltd**

Representative : **Kerry Coleman (In-House
Solicitor)**

Respondent/Defendant : **Paul Callanan**

Representative : **In person**

Tribunal members : **Judge Robert Latham
Susan Coughlin MCIEH**

In the county court : **Judge Robert Latham (sitting as a
District Judge of the County Court)**

Date of hearing : **22 January 2020**

**Date of handed
down decision** : **29 January 2020**

DECISION

Summary of the decisions made by the County Court

1. There be a money judgement for the Claimant in the sum of £239.
2. There be no order as to costs.

The Application

1. On 18 April 2019, Gateway Holdings (NWB) Ltd (“the Claimant”) issued proceedings against Mr Paul Callanan (“the Defendant”) claiming £1,000.91, interest and costs. The sum claimed included an administration charge of £300 which had been imposed on 18 August 2017 and costs of £420.
2. On 29 May 2019, the Defendant filed a Defence. He disputed the sum that was payable. He stated that there has been a long standing dispute about any arrears that are due.
3. On 18 September 2019, Deputy District Judge Oldham, sitting at Romford County Court, transferred the proceedings to this tribunal. On 9 October 2019, a Procedural Judge gave Directions. He allocated the case to the Small Claims Track.
4. The Tribunal is administering this case under the Deployment Scheme. The effect of this is:

(i) The Tribunal now administers the whole case on behalf of the County Court, and Judge Latham, sitting as a District Judge of the County Court (“DJ Latham”), is entitled to make directions having regard to the provisions of the Civil Procedure Rules 1998 (the “CPR”).

(ii) Judge Latham and Ms Sue Coughlin, sitting as a First-tier Tribunal determine any issue relating to administration charges pursuant to Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”). This jurisdiction is governed by the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

(iii) DJ Latham determines the issues which fall outside the traditional jurisdiction of the FTT. This includes the claims for ground rent, interest and costs.

The Hearing

5. Kerry Coleman, an in-house solicitor appeared on behalf of the Claimant, accompanied by Joel Blewer, a Property Manager. Paul Callanan appeared in person.
6. The Procedural Judge had directed the Claimant a full account showing precisely how it had arrived at its figure for ground rent. Had this been done, it is probable that this hearing would not have been necessary. It became apparent that the only issues in dispute are (i) ground rent; and (ii) costs. Both of these are matters for DJ Latham.

7. However, there is a background to this dispute that first needs to be considered.

Background

8. The Defendant derives his interest in Flat 14, Castle House, Castle Road, RM9 4XW (“the flat”) from a lease dated 1 September 2003, which grants a term of 999 years. There are three parties to the lease: (i) Castle Heights Limited as “Lessor”; (ii) Steelhouse Properties Limited as “Lessee” and (iii) Castle House Residents Management Company Limited (“CHRMC”) as “Management Company”. The Lessor is entitled to an annual rent of £150 payable in advance by equal instalments of £75 on 1 January and 1 July. The Management Company is responsible for insuring the block and for providing the management services. The lessees are shareholders in the Management Company.
9. On 13 August 2008, Companies House removed CHRMC from the register, apparently for failing to file annual accounts. Mr Gibbs, the then lessor, stepped in and purported to insure the building and provide the management services. In 2009, he engaged the Claimant to provide this service. Under the terms of the lease, Mr Gibbs had no right to demand these sums from the lessees.
10. On 24 February 2010, the Claimant acquired the freehold interest in the block. In 2010, the Claimant applied to vary the terms of the leases to rectify this situation (LON/00AB/LVL/2010/0014). On 15 March 2011, a Tribunal refused this application.
11. On 13 February 2007, the Defendant acquired the leasehold interest in the flat. Between January 2009 and November 2011, the Claimant wrongly demanded service charges from the Defendant. Demands were also made to Santander, the Defendant’s mortgagee, who paid a sum £825 on 2 May 2013. It is now apparent that this sum was not due. The Defendant complains of the penalties that Santander have required him to pay. However, he has not filed a Counterclaim.
12. The current situation is that the lessees have now established a new management company. This was a cheaper option than resurrecting CHRMC at a cost of some £6,000.

The Claim for Arrears of Ground Rent – DJ Latham

13. The following table sets out the ground rent which has been due since the Claimant acquired the freehold on 24 February 2010, and the sums paid by the Defendant.

Date	Ground Rent Due	Sums Paid	Balance
3.9.09		£136	-£136
1.7.2010	£75		-£61
1.1.2011	£75		£14
1.7.2011	£75		£89
1.1.2012	£75		£164
1.7.2012	£75		£239
1.1.2013	£75		£314
2.5.13		£825	-£511
1.7.2013	£75		-£436
30.7.13		£75	-£511
1.1.2014	£75		-£436
17.3.14		£75	-£511
1.7.2014	£75		-£436
1.1.2015	£75		-£361
1.7.2015	£75		-£286
1.1.2016	£75		-£211
1.7.2016	£75		-£136
1.1.2017	£75		-£61
1.7.2017	£75		£14
1.1.2018	£75		£89
1.7.2018	£75		£164
1.1.2009	£75		£239
	£1,350	£1,111	£239

14. Both parties agreed to this analysis and accepted that the Claimant is entitled to a money judgment in the sum of £239. It is apparent that only £314 was due when the Claimant demanded £825 from Santander. The Claimant abandoned any claim for administration charges and interest. The parties agreed that further rent of £75 became due on 1 July 2019 and 1 January 2020. However, this is not part of the current claim.

Costs - DJ Latham

15. The Claimant have filed a Schedule of Costs claiming £1,18.60. The Claimant accepted that that as the case had been allocated to the Small Claims Track, it is only entitled to the court fee of £80 and CPR fixed costs of £112, a total of £192.
16. The Defendant contended that this action was unnecessary. The arrears had only arisen because the Claimant had wrongly claimed sums for service charges. The service statements which he had received had been extremely misleading. These included various charges for service charges with numerous contra entries. The Claimant had demanded sums from his mortgagee which were not lawfully due. He had been penalised by his mortgagee as a consequence. The pre-action letter, dated 16 April 2019 had claimed £1,080.91. Had the Claimant prepared

a simple service charge account setting out the ground rent due and the sums paid, he would readily have agreed that the modest sum of £239 was due.

17. I agree with the Defendant and make no order for costs.

Judge Robert Latham
29 January 2020

ANNEX - RIGHTS OF APPEAL

Any application for permission to appeal must arrive at the tribunal offices in writing within 7 days after the date this decision is sent to the parties.