



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

Case Reference : **MAN/00BU/LSC/2019/0110**

Property : **Unit 234, 2 Moorfields, L2 2BS**

Applicants : **The Leung & Chan Family
(Mr Kin Ming Leung)**

Respondent : **Radcliffe Investment Properties Ltd**

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

Tribunal Member : **(Judge) Mr Phillip Barber;
(Valuer) Mrs Aisling Ramshaw**

Date : **16 September 2020**

DECISION AND REASONS

Decision

The Service Charge payable for the period 01/05/2018 to 31/12/2018 is £868.50 and the Service Charge payable for the period 01/01/2019 to 31/12/2019 is £1,812.06.

The administration charge remains payable in the sum of £36.

Reasons

The Law

1. In relation to the Tribunal's jurisdiction over the payment of the service charge, 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.

2. Accordingly, our powers are limited to determining the reasonableness and payability of the service charge under the terms of the applicants' 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.

Our Assessment of the Application

3. The parties are generally in agreement as to how the application under section 27A should be disposed of. The Applicants claimed that, in relation to the service charge for the years 2018 and 2019, the wrong square footage of the property had been used (347 as opposed to 266) to calculate the proportion payable for unit 234.
4. In its statement of case sent on the 26 May 2020, the Respondent accepts that claim and has amended the service charge payable for the period ended 31 December 2018 to £868.50 from £1,132.92 and for the period ended 31 December 2019 to £1812.06 from £2,363.85.
5. The Applicant's statement of case refers to a charge of £1,301.63 for the 2018 period but we are satisfied that this figure has been amended down in any event, in November 2019 to £1,132.92 (albeit based upon the wrong square footage).
6. It follows that the Tribunal makes a decision in the above terms and which disposes of all issues under section 27A of the Landlord and Tenant Act 1985.

Schedule 11

7. There remains the dispute over the £36 administration charge and the application under schedule 11 of the Commonhold and Leasehold Reform Act 2002. The power and jurisdiction of the Tribunal under schedule 11 is couched in similar terms to those contained in section 27A and do not need to be set out in any detail.
8. The Tribunal finds that there is a contractual obligation on the part of the Applicants to pay such a charge under paragraphs 7.1 and 16.1 of Schedule 4 to the Lease and that the amount was reasonably levied on the 15 November 2018. In our view, even taking account of the fact that the wrong square footage was used by the Respondent, the Applicants were aware that some service charge would be payable for the year or years in question and ought to have made a payment in any event. For that reason alone, it would be wholly unconscionable to prevent the Respondent from collecting its reasonable costs, which we assess at £36, in defending this application and follows that it was reasonable to levy the administration charge and that the amount is reasonable and payable.
9. There was no application under section 20C of the Landlord and Tenant Act 1985.

Signed 

Phillip Barber 16 September 2020

Tribunal Judge