



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

Case reference : **CHI/29UL/LIS/2021/0047**

Property : **Top Floor Flat, 4 Seaview Terrace,
Wellington Place, Sandgate,
Folkestone CT20 3DL**

Applicant : **Miss Jasmine Monk**

Representative :

Respondent : **Mr Benjamin Powell**

Representative :

Type of application : **Transferred Proceedings from
County Court in relation to service
charges**

Tribunal member(s) : **Judge D Whitney**

Date of Hearing : **30th November 2021**

Date of decision : **30th November 2021**

DECISION

Background

1. The Applicant seeks, and following a transfer from the County Court the Tribunal is required to make, a determination as to the Respondents liability to pay and the reasonableness of service charges. These are matters within the jurisdiction of the Tribunal.
2. The original proceedings were issued in the County Court under Claim No. 187MC762 and were transferred to the Tribunal by District Judge Rahman by order dated 8th September 2021.
3. The Tribunal issued directions on 11th October 2021 listing the matter for hearing on 30th November 2021 by video.

Hearing and determination

4. The hearing took place remotely by video and the Applicant and Respondent attended. The Tribunal had before it the pleadings and documents supplied by the parties in accordance with the directions.
5. At the outset the issues to be determined were agreed being the liability to pay the interim service charges demanded. Mr Powell had raised issues of landlords breach of covenant and defamation but the Judge explained these were not matters which could be determined within this application.
6. Ms. Monk explained she completed her purchase on 15th November 2019. She accepted it had taken her sometime to issue invoices and she issued the first invoice on 11th October 2020 and the second was dated 25th December 2020. At this point in time she was living in her flat and sent the invoice with a covering letter and the Summary of Rights and Obligations. She confirmed she had issued invoices for ground rent (although none were in her documents) but not any other demand.
7. Ms. Monk explained she relied upon a lease dated 16th October 2006 made between Colin Manning & Wendy Manning and Michelle Born. In particular clause 3 of the lease. The relevant part reads:

“THE Tenant...COVENANTS with the Landlord to pay to the Landlord...as a maintenance contribution of one half of an annual sum of one thousand pounds (being the estimated annual cost of doing the things (hereinafter comprehensively referred to as “maintenance”) specified in the Second Schedule hereto) such payment to be made in advance by two instalments on the 25th day of December and the 24th day of June in every year the first of such payments being a proportionate payment from the date hereof to the 24th day of June next and in case in any year ending on the 25th

day of December the said sum of one thousand pounds shall with any balance....”.

8. Ms. Monk stated she had received a payment of £269.29 from Mr Powell. She also sought a ground rent payment of £50 interest and costs which were matters purely for the County Court.
9. She had issued demand for a proportionate payment from date of purchase onwards. She had no evidence as to what if any payments had been demanded by her predecessor or whether she could demand a proportion from November until December 2019.
10. Mr Powell agreed he had paid £269.29 to Ms Monk which he stated represented one half of the insurance she had paid. He had paid nothing else as his solicitor had advised him not to. He agreed the lease was that referred to above. He indicated he had agreed with the previous freeholder he would pay one half of the maintenance costs and he could undertake his own maintenance. He had referred to two lots of works he had paid for but he had no invoices for the same. He also had no evidence that he had reached agreement with Ms Monk to recover half of the costs from her.
11. Mr Powell was not satisfied with subsequent accounts sent to him by Ms. Monk and documentation in support.
12. At the end of the hearing both parties confirmed they had made all the submissions they wished to the Tribunal.
13. The Tribunal gave its decision in respect of Tribunal matters before determining those matters within the jurisdiction of the County Court alone. It was explained a written decision setting out reasons would follow.
14. The Tribunal was satisfied that the invoices issued by the Claimant on the face of it were valid. They recorded her home address at the time, the amounts claimed and I accept her evidence they had attached a statement of rights and obligations. This was not challenged by Mr Powell.
15. I do not accept Ms Monk is entitled to a proportion between her purchase and the end of the service charge year. I am satisfied that she is entitled under clause 3 of the Respondent’s lease to require interim payments totalling £1000 per year by two equal payments of £500. I am satisfied that whilst interim payments valid demands may be sent out at a time after the relevant date.
16. Mr Powell suggested that budgets should be provided. I do not accept this point. I find the amount of the interim charge is fixed under the lease. It is correct that subsequently the Claimant should produce service charge accounts which should balance the amounts claimed. Mr Powell also has rights to see copies of all supporting invoices, receipt and the like. The Tribunal highlighted that in its

opinion the document produced by Ms Monk were not adequate service charge accounts.

Conclusion

17. The Tribunal finds that the interim charges for the period 25th December 2019 until 24th December 2021 totalling £1500 are due and payable under the terms of the lease held by Mr Powell.
18. The Tribunal reminds the parties that it is in both of their interests to work together moving forward.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk 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.