



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

Case Reference : CHI/23UB/LIS/2021/0053

Property : 36 Canberra House Cheltenham
GL51 7UB

Applicant : Cheltenham Borough Council

Representative : Rachel Baldwin, One Legal

Respondent : Neil David Peckham

Type of Application : Transferred in s.27A

Tribunal Members : Judge Dovar
Mr Ayres FRICS

**Date and venue of
Hearing** : 29th March 2022, Remote

Date of Decision : 17th May 2022

DECISION

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1. This an application for the determination of service charges in respect of the Property for the years 2018-19, 2020-21: and for cyclical redecoration costs demanded in 2017 and the cost of Neighbourhood works demanded in 2018. This claim was transferred from the County Court at Gloucester and Cheltenham on 1st December 2021.
2. This decision deals with those matters within the jurisdiction of the Tribunal (being the determination of the payment of service charges). At the hearing, additional matters were dealt with (being ground rent and costs), which fall within the jurisdiction of the County Court and have been heard by Judge Dovar in his capacity as a County Court Judge. A separate order for those parts accompanies this decision.
3. The claim was started in the County Court Business Centre on 27th July 2021, claiming £5,748 by way of outstanding service charges and ground rent from July 2019, plus costs. A Defence was filed on 11th August 2021, admitting £1,400, but denying the balance. In that Defence it was said

‘Improper consultation. I have emailed several times (never responded to) The works were overpriced and not up to a sufficient standard. My balcony was not painted. Ground floor paint peeling, bin store and access path not fit for purpose. Unnecessary landscaping. Fence added without consultation.’
4. After transfer, on 21st December 2021, the following directions were given: the Applicant’s to provide their Statement of Case by 28th January 2022, the Respondent his by 18th February 2022 and any Reply by the Applicant by 4th March 2022. Both parties were given permission to rely

on witness evidence and the Applicant was to file a bundle by 11th March 2022.

5. On 7th January 2022, a witness statement was provided by Emma Cahill on behalf of the Applicant. It set out the Applicant's case. Since then, Ms Cahill has left the employ of the Applicant and permission was given for her statement to be adopted by Lia Tomlinson.
6. No statement of case or witness statement has been provided by the Respondent. In light of that on 14th March 2022, the Applicant applied to debar the Respondent from defending this matter. The Tribunal sent out a notice under Rule 9 of the Tribunal Procedure Rules warning the Respondent that it was considering debarring him given his default in compliance with the directions. In response on 22nd March 2022 he emailed the Tribunal, raising issues of a lack of communication from the Applicant and three issues: Bins: it appears the reconfiguration of the bin storage has caused issues; Fence: it was not wanted and may not have been provided; and Path: it is said it is user unfriendly. In all it is said the landscaping was unnecessary and counter productive.
7. On 22nd March 2022 the Tribunal declined to debar him, but pointed out that he had no evidence before the Tribunal and would not be allowed to do so on the day, without permission. We permitted Mr Peckham to give limited details of the challenges he wanted to bring on the day, but were conscious that he should not be permitted to raise at the last minute matters which the Council would not be able to respond to.

The Claim

8. The claim breaks down as follows:
- a. £478.57 for service charges for the period 2018-19. Demanded on 5th August 2019;
 - b. £662.32 for service charges for the period 2020-2021. Demanded on 17th May 2021. Although it appears that this has been paid;
 - c. £10 ground rent for 2021 to 2022 demanded on 14 June 2021. A partial payment has been made.
 - d. £772.76 for cyclical redecoration. Demanded on 19 October 2017
 - e. £4,263.58 for Neighbourhood Works, demanded on 17 January 2018. Although this was an overcharge, and he has since been credited with £39.19 on 9th November 2021. A partial payment has been made towards this.
9. This determination therefore deals with items, a., d. and e. Item b. has been paid and the details of the same were not challenged and the Tribunal determines the sums are payable in full. Item c. is a matter for the County Court.

2018-19: £478.58

10. This was demanded in August 2019. Mr Peckham raised no specific challenge to this particular demand. The Tribunal determines it is payable in full.

Cyclical Redecoration: £772.76

11. This was demanded in October 2017. It followed a notice of intention, under s.20 of the Landlord and Tenant Act 1985, dated 30th July 2008, for a 10 year contract for all internal and external decoration of all blocks of the Council across the Borough and a notice of estimate for this specific job on 31st December 2015, in which the sum of £5,042.59 was quoted.
12. Mr Peckham stated that he objected to the painting works. He said that the Council had not replied to his numerous complaints. Unfortunately the Tribunal had not been provided with any of these complaints and as outlined above, Mr Peckham had not produced much in the way of detail as to his challenges. He considered that the cost was too high given that it was a small block with only 6 window sills that needed decorating. He also stated that the work had been done poorly as the paint was peeling.
13. Not having had advanced notice of this challenge, the Council were only able to deal with this challenge to a limited extent. They pointed to the procurement process in which they had selected a contractor who had scored highly for both price and quality. It was also confirmed that the cost had been arrived at on the basis of time taken, rather than the area. They were also aware that part of the work was not carried out, doors were not painted, but that they had not been charged for. There had also been issues about access to balconies, which if not resolved, were not paid for. Mr Peckham said his had not

been painted, but had been decorated by him. The Council did not consider that it was his to paint, but in any event, if it had not been painted it would not have formed part of the overall costs. Site visits had been carried out weekly and the Council had maintained a good relationship with the contractors.

14. The Tribunal was not in a position to properly assess the merits of Mr Peckham's challenges. Although raised in outline in his initial Defence, there was no further detail provided, no photographs, no alternative quotations, or other evidence until he made his oral submissions at the hearing. We were satisfied from the Council's evidence that the works had been carried out, it was reasonable to incur the costs of decoration, in compliance with their obligations under the lease, and they were carried out to a reasonable standard. In light of that, the Tribunal is unable to permit his challenge and allows these charges in full.

Neighbourhood Works: £4,263.58

15. A Notice of Intention was served on 22nd August 2011 for a Neighbourhood Works programme to be placed with a contractor for around 27 of the Council's properties. The intended works were for improving security, lighting, bin storage, washing lines and including soft landscaping and making areas easier to maintain.
16. A Notice of Estimate for Canberra House was served on 13th April 2016, setting out 5 estimates for the works proposed to Mr Peckham's estate. The lowest being £333,212. The Council did not have any

record of a response from Mr Peckham, save that as part of specific consultation for Canberra house he had said No, but had not provided any comments. That some consultation document showed that 23 had agreed, 6 had disagreed and 7 did not respond. The consultation was part of a process whereby the residents were consulted about improvements they wished to have made to their estates.

17. Mr Peckham complained about the landscaping of the path, the bins and fencing that had been carried out under these works. He said the pathway was unsuitable for disabled people and that he had complained about it. The Council had no record of any complaints. He complained that the fencing was poor if not non-existent, but there was no evidence of this. He stated the bins had been poorly relocated, but again there was no evidence of this.
18. The Council corrected the sum claimed, in that it had overcharged by £39.19. Accordingly, the Tribunal determines that £4,224.39 is payable in full.

Communication

19. More generally Mr Peckham said that he had been disappointed by the fact that the Council had simply gone ahead with the various works without listening to him and then had failed to engage with him after they had been carried out. He stated that if they had engaged, he would probably have paid or at least come to some resolution.

20. The Tribunal was not able to determine one way or the other whether there was any justification in this complaint, as Mr Peckham had not provided any evidence in that regard. In any event, its relevance to the issues before the Tribunal was questionable to say the least.

Conclusion

21. Accordingly, the Tribunal determines that sums claimed are payable in full.

JUDGE 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 by email to rpsouthern@justice.gov.uk .

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.