



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

Case reference : **LON/00AK/LSC/2021/0420**

**HMCTS code
(paper, video,
audio)** : **P: PAPERREMOTE**

Property : **3 Geary Court, 24 The Concourse,
London N9 0TQ**

Applicant : **Mr AMAR HAYAT**

Representative :

Respondent : **LONDON AND QUADRANT HOUSING
TRUST**

Representative :

Type of application : **For the determination of the liability to
pay service charges under section 27A of
the Landlord and Tenant Act 1985**

Tribunal members : **JUDGE SHAW
Ms M KRISKO FRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **19th July 2022**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote determination on the papers without an oral hearing, which has been consented to by the Applicant and not objected to by the Respondent. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because a paper determination was proposed by the Applicant, unopposed by the Respondent, and considered appropriate by the Tribunal. The documents referred to the Tribunal are in a bundle of 53 pages, the contents of which have been noted. The order made is described at the end of these reasons.

Decisions of the tribunal

- (1) The tribunal determines that:
 - (i) for the service charge year **2016-2017**, the original sum charged by the Respondent in the sum of **£1722.12**, should be reduced to **£1124.77**, requiring the Respondent to credit the Applicant in the sum of **£597.35**
 - (ii) for the service charge year **2017-2018**, the original sum charged by the Respondent in the sum of **£1805.16**, should be reduced to **£1356.30**, requiring the Respondent to credit the Applicant in the sum of **£448.86**
- (2) The tribunal makes an order under section 20C of the Landlord and Tenant Act 1985, to the effect that insofar as the Respondent has incurred any costs in these proceedings, none may be passed to the Applicant through any service charge
- (3) The tribunal determines that the Respondent shall pay the Applicant **£100** within 28 days of receipt this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicant

The application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) [and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”)] as to the amount of service charges and administration charges payable by the Applicant to Respondent in respect of the service charge years referred to above.

The Determination

This matter was determined on the papers without an oral hearing

The background

2. The property which is the subject matter of this application is one of 51 flats in a purpose built block, comprising mainly flats held on a joint ownership basis, but 4 are held on Assured Shorthold Tenancies.
3. In a Decision numbered **LON/ooAK/LSC/2017/0467**, made by the Tribunal on **7th August 2019**, the Tribunal dealt with an application made by the leaseholders of 11 of the flats at the block of which this Property forms part. The service charges for the years **2016/17** and **2018/19** were in dispute, and the Tribunal made wide ranging findings on these controversial matters, at the culmination of a 2 day hearing. For reasons which the Applicant speculates upon, he was not included as a party in those proceedings, nor informed of them, he thinks because he does not reside in the building (the Property is presumably held by him for investment purposes, and perhaps tenanted).
4. It is not unusual sometimes for not all of the tenants in a large block of this kind to be joined in the proceedings. However, after the determination of the Tribunal, Housing Trusts of the size and repute of the Respondent in this case, will subsequently adjust the service charge account of all tenants, in line with the Tribunal's determination.
5. For reasons unexplained, for some reason, that has not happened in the case of the Applicant, and his account remains with the sums originally claimed for those 2 years, in respect of which the Tribunal determined on the evidence that there should be some reductions.
6. The essence of the Applicant's Application therefore is simply that his account too should be adjusted, to bring the claims for those two years into line with the reductions given the other tenants, and reflected in the Tribunal's Decision.
7. One might have expected this to be fairly uncontroversial – but despite the Tribunal issuing Directions on **8th March 2022**, requiring a Statement of Case to be served by the Respondent, it failed to do so. The Tribunal then served a formal notice on the Respondent on **13th May 2022**, which again was not complied with. In the event a debarring order was made **31st May 2022**, precluding the Respondent from taking any further part in these proceedings.

The issues

8. The current position therefore is that the Tribunal has a full bundle prepared by the Claimant, containing the earlier Decision of the Tribunal referred to above, his lease, and a short statement in which he seeks simply to have his account adjusted, in order to bring it in line with the earlier Decision of the Tribunal, but which curiously, the Respondent has not effected.

The tribunal's decision and Reasons for the tribunal's decision

9. The Tribunal is in no doubt that that adjustment should now take place and that the credits ordered in the earlier Decision of the Tribunal should be given by the Respondent to the Applicant, either by way of repayment or by credit applied to account of his property. The last Tribunal examined the cases of the parties in detail, on the evidence, and made clear findings. The issues before this Tribunal have already been determined. Those finding should be applied to the Applicant's account. The Respondent was given ample opportunity to give some explanation as to why the position should be otherwise, but failed to do so, and is now barred from defending these proceedings. This Tribunal adopts the findings made in the earlier Decision. The Decision of the Tribunal is as set out under the heading "Decisions of the Tribunal" above,

Application under s.20C and refund of fees

10. It seems to the Tribunal that there should be no reason for the Applicant being out of pocket, for being obliged to make this application at a fee of £100. That fee should be reimbursed and paid to the Applicant by the Respondent within 28 days of receipt of this Decision.

Name: JUDGE SHAW

Date: 19th July 2022

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).