



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

Case Reference : CHI/00HE/LSC/2022/0084

Property : 16 Connoc Close, Liskeard, Cornwall, PL14
3UY

Applicant : Agatha Ovonlen-Jones (1) and Eol
Ovonlen- Jones (2)

Representative :

Respondent : LiveWest Homes Limited

Representative :

Type of Application : Determination of liability to pay and
reasonableness of service charges section
27A of the Landlord and Tenant Act 1985
Costs applications section 20C of the
Landlord and Tenant Act 1985 and
Paragraph 5A of Schedule 11 to the
Commonhold and Leasehold Reform Act
2002

Tribunal Member(s) : Judge Tildesley OBE

Date of Directions : 25 February 2023

DECISION

The Application

1. On 11 July 2022 the Applicants applied for a determination of liability to pay and the reasonableness of service charges for service charge years ending 4 April 2022 and 2023 pursuant to section 27A of the Landlord and Tenant Act 1985 (the 1985 Act).
2. The Applicants additionally seek a determination that the costs of the proceedings are not recoverable as service charges pursuant to section 20C of the 1985 Act. The Applicants also apply for a determination that the costs of these proceedings are not recoverable as administration charges pursuant to paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002.
3. On 24 October 2022 the Tribunal directed that the Application be dealt with on the papers and that the parties exchange statements of case. The determination has been delayed principally because the Tribunal was awaiting a copy of the full tenancy agreement. The Applicant has supplied a partial copy of the agreement. The Respondent states that it no longer has a copy.
4. The parties accept that there is a tenancy agreement in place and that Mrs Ovonlen Jones has been the tenant since 1997. The parties also accept that under the tenancy the tenant is liable to pay a variable service charge in addition to the rent. This dispute is not about whether the Applicant is liable to pay a service charge but about the amount. As the amounts in dispute are modest £79.20 for 2021/22 and £64.80 for 2022/2023 the Tribunal considers it proportionate and consistent with the overriding objective not to delay the proceedings any further and make a determination.

The Facts

5. The property is a three bedroom semi-detached house constructed in 1997, and situated in the Connoc Close development in Liskeard which is also known as Maudlin Farm. The landlord for the development is Live West Homes Limited, a housing association.
6. The Landlord charges the tenants on Maudlin Farm for various services which are recovered as a variable service charge and divided equally between the 38 tenants. The service charge is calculated on the actual costs incurred in the previous financial year. The costs being recovered by the service charge are grounds maintenance, refuse collection (fly tipping) and day to day estate management costs. A provision is also included to recover the asset replacement costs for the communal play area. The contribution from each tenant is calculated on a weekly basis over 48 weeks in any one year.

7. In the year ended 4 April 2022 the service charge comprised £966.08 for gardening, administration fee of 15 per cent equating to £144.91, a provision of £1,247.23 and a deficit of £657.02 on the 2020 Accounts making a total of £3,015.24 with a contribution from each tenant of £79.30.
8. In the year ended 4 April 2023 the service charge comprised £996.24 for gardening, £60.24 health and safety compliance checks, administration fee of 15 per cent equating to £158.47, a provision of £1,247.23, making a total of £2,462.18 with a contribution from each tenant of £64.76.
9. The Applicant's case was that the weekly contribution of the service charge should be reduced to 0.52 pence per week or £25 per year which was the amount fixed by the Tribunal in 2015. The Applicant's case for the reduction was that the Respondent had failed to maintain the property to the required standard. The Applicant cited in support the poor standard of works connected with the installation of radiators, cracks running along both sides of the staircase, creaky stairs, a "sinking" kitchen floor, and the tripping of electrical appliances following the electricity compliance safety check undertaken by the Respondent.

Decision

10. The Applicants put their case in the following words:

"The tenant's application against "increasing variable service charges" is NOT as to the tenant's "liability" for service charge payments. On the contrary, it is the "unreasonableness of the increasing variable service charges", when compared to the landlord's Service/Repair Policy and poor service history regarding her home".
11. The Tribunal has decided this Application on the basis of the case put forward by the Applicant. It is not for the Tribunal to raise issues which do not form part of the Applicants' case.
12. The Applicants have accepted that they are liable to pay the variable service charge. The Respondent relied on the witness statement of John Kenworthy, the Service Charge Manager, to establish the costs that make up the service charges in dispute and the method of apportionment of those costs.
13. The Tribunal finds that the disputed variable service charges were for the costs of the Respondent's services for maintaining the estate rather than the property. The Applicant has raised no challenges to the costs incurred by the Respondent in connection with its maintenance responsibilities for the estate. Further the Applicant has not disputed the method of apportioning those costs between the tenants on Maudlin Farm. The Applicants' grievance was with matters not connected with the service charge.

14. The Tribunal decides that the Applicants case has no prospect of success. The Tribunal, therefore, confirms the service charge for the year ended at 4 April 2022 at £3,015.24 with a contribution from each tenant of £79.30 and for the year ended 4 April 2023 at £2,462.18 with a contribution from each tenant of £64.76.
15. The Tribunal makes no order under section 20C of the 1985 and no order under paragraph 5A Schedule 11 of the 2002 Act.

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.