



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

Case Reference : **LON/00AK/LSC/2022/0152**

Property : **Flat 4, Boulevard House, 42 Elmore Road,
Enfield, Middlesex EN3 5PX**

Applicants : **Katherine Mann, Flat 4
Maximillian & Maria Voloaga, Flat 6
Alice Baggaley, Flat 7
Victoria Moukatas, Flat 1
Marco Miranda & Chloe Ham, Flat 3**

Representative : **Katherine Mann**

Respondent : **ICON UK Holding Limited**

Representative : **Mr M Ahmed**

Type of Application : **A determination of the payability and reasonableness of service charges**

Tribunal Members : **Judge Dutton
Mrs S Redmond BSc MRICS**

Venue of Hearing : **Video Hearing on 25 January 2023**

Date of Decision : **2 February 2023**

DECISION

© CROWN COPYRIGHT 2023
DECISIONS OF THE TRIBUNAL

- 1. The Tribunal determines that the sum of £750 is payable by each of the Applicants as set out on the attached schedule.**
- 2. The Tribunal makes the determinations in respect of the various matters under the headings set out below and as shown on the attached schedule.**

- 3. The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the landlord's costs of the Tribunal proceedings may be passed to the lessees through any service charge, it being just and equitable so to do.**

APPLICATION

1. The Applicant, on behalf of herself and the leaseholders of four others flats, sought a determination pursuant to section 27A of the Landlord and Tenant Act 1985 (the Act) as to the amount of service charges payable by the Applicants in respect of the service charge years 2021 and 2022. The application in this matter was lodged by Ms Mann on 14th April 2022 and was signed by those persons named on the front sheet. It was clarified at the hearing that they were intended to be parties to these proceedings although that is not clear from the documentation before us and none, save Ms Mann, had participated in the proceedings. Mr Ahmed confirmed, however, that he had no objections to them being included and accepted that they were all parties to these proceedings and thus any order made by us covered all the Applicants.

HEARING

2. The Applicants were represented by Ms Mann and the Respondent appeared through Mr Ahmed.
3. Prior to the hearing we had received two bundles of documents, the first from Ms Mann running to some 59 pages and the bundle for the Respondents running to some 45 pages. Included within those bundles and set out in the Respondent's papers at pages 1 and 2 was what appeared to be a foreshortened Scott schedule containing the Respondent's replies to the tenants' comments in relation to a number of issues, which we deal with individually.

4. The property appears to be a modern block of some three and four storeys containing seven flats, the upper floors appearing to benefit from balconies. There is an enclosed area to the rear with bin and cycle store. This information was obtained by viewing the property online. We did not inspect the property and this was not considered necessary or required by the parties.
5. The Applicants hold long leases of their flats in which the landlord is required to provide services and the tenant to contribute to those costs by way of a variable service charge. Insofar as any terms of the lease are relevant, we will set them out below.

ISSUES

6. As we have indicated above, the issues are set out on a form of Scott schedule included within the Respondent's bundle, which was created by Ms Mann on behalf of the Applicants. We felt it appropriate to go through that on an item-by-item basis and took evidence from both Ms Mann and Mr Ahmed as we did so. We have set out our findings on the schedule, together with our assessment of the sums due and owing by the Applicants. The Scott Schedule provided for our use includes items that were not challenged.
7. We are pleased to be able to say that there was a good deal of concession on the part of the Respondent, but we will deal with these specific items as follows.
8. **Preparation of Financial Statements.** An invoice in the sum of £1,000 was produced by the Respondent from Brayan & Spencer Associates. This invoice is dated 28th February 2021 and merely says 'ongoing accountancy charges'. There

is no other explanation as to what this document relates. At the hearing we were told by Mr Ahmed that this related to accountancy matters and that the Respondent only sought to recover £550 of these costs. We expressed our concern that the invoice did not contain details of the work done, nor had he clarified how the fee of £550 had been calculated.

9. Under the terms of the lease a certificate needs to be produced for each of the accounting years. Ms Mann confirmed that the Applicants would be prepared to pay £550 in respect of these accountancy costs on the following basis (a) that the invoice was re-issued in the sum of £550 with a clear indication of the works that were carried out; (b) that the accountants produced a certificate for the year 2021, the accounting period under the terms of the lease appearing to run from 1st January until 31st December. If the invoice and certificate are produced, then payment will be made.
10. The next issue related to **communal cleaning**. The sum claimed was £480 and this was shown on an invoice from Reliance Construction (London) Limited a company based in Kings Lynn. The invoice refers to the subject property and has three headings, one for communal cleaning from September 21 to February 22 in the sum of £480 being £80 per visit of which it is said there were six. The next entry is garden estate management, again from September 21 to February 22 at a cost of £65 per visit of which there appeared to be six giving the sum of £390 and finally window cleaning without dates in the sum of £360. It was said by Mr Ahmed that this invoice has been paid.
11. Ms Mann indicated that the tenants have been owner-occupiers, she moving in, in February of 2021, but not all tenants were in occupation until August of 2021. As this period covered the pandemic a number of people were working from home, and they did not see a cleaner apart from on one occasion. No attendance sheets were provided for the cleaners to mark and to exhibit in the common parts

of the building and Mr Ahmed said that he relied on photographic evidence from the cleaners, which they produced whenever they attended. No such photographic evidence was produced to us nor was any attendance sheet or any other invoices apart from the one that we received from Reliance. The Applicants offered £80 for this and given the lack of evidence on the part of the Respondents to show the attendances we find that the sum of £80 is a reasonable amount to order as payable in these circumstances.

12. The next heading that we were asked to consider was **electricity for the common parts**. There was an invoice from British Gas which appeared to be for a period prior to 15th April 2021 where there was an outstanding balance of £442.49 and thereafter the billing period appeared to be from 15th April 2021 to May of 2021 which caused the costs to rise to £487.61. We asked Mr Ahmed whether he had made contact with British Gas on the outstanding balance as at April of 2021 but he said that he had not. Indeed, in the so called budget document that was produced to the leaseholders and included in the bundle before us, the original estimate for the electricity was £300 but then a sum of £537 appears at the actual costs. This has no relationship to any of the invoices that were produced to us. The budgeted figure of £300 is accepted by the Respondents to cover the electricity for the period until 28th February 2022 and we find that to be a fair sum in the circumstances, given the lack of information forthcoming from the Respondent in respect of the outstanding balance charge.
13. The next item that we were asked to consider was **garden estate and maintenance**. The invoice, as we have referred to above showed, a charge of £360. The Applicants offered £195 as they were of the view that the works had only been carried out on three occasions and the Respondent accepted this figure.

14. On the schedule reference is made to a **company secretary charge** of £100 but the Respondent confirmed that this would be removed and would not be claimed from the Applicants.
15. The next contentious item was that of **window cleaning**. The Applicants accept that there has been one instance of window cleaning which relates to all windows at the Property. In the budget a figure of £360 had been mentioned as being the cost for four visits. The Applicants at the hearing offered the sum of £100 in respect of this service which was accepted by Mr Ahmed on behalf of the Respondent Company.
16. The next item that was in dispute related to **management fees** for which the Respondent sought a charge of £1,848 which would give a charge of £264 per leaseholder. The Applicants' position was that they would offer to pay one third of this, namely £616 on the basis that there had been little or no management and no oversight of the various services said to have been provided at the Property.
17. The response from Mr Ahmed was that they had performed their duties, that there had been multiple call outs beyond their allocated time slots and that work was being done on a loss. He was of the view that the costs they were seeking to recover for this service were "unviable" and that the tenants had made unnecessary call outs for which they had not been charged. Requesting this to be removed was unfair.
18. We have considered all that has been said. There is no doubt that the Respondent has not fulfilled its duties as a managing agent as one would expect. The demands that have been issued in this case are faulty. We were provided with a copy of the demand sent through to the tenants which is in effect an invoice showing the yearly service charge of £1,200 but containing no statutory

wording as required under section 21B of the Act. This means that the complaints made by Mr Ahmed that the tenants had not paid is somewhat disingenuous given the lack of proper demands in this case. It is also not obvious that these demands comply with sections 47 and 48 of the Landlord and Tenant Act 1987. In addition to these failings there was no evidence that any monitoring of those people providing services to the Property was being undertaken. No certificate of the accounts has been produced and generally the Respondent has fallen far short of its obligations under the terms of the lease and as a manager of the Property.

19. Nonetheless it is clear that some management works have been done and that some contractors have been engaged and paid even if they have not been checked. Taking the matter in the round we find that reducing the management fee by 50% to £924 is reasonable and appropriate.
20. The last item that was referred to was under the heading **general repairs and maintenance**. It appears that there have been some problems with the drainage, the technicalities of which Mr Ahmed was not fully aware and which we were not able to ascertain. It is not clear whether the drainage system is by of some form of septic tank or whether it connects to the main drainage system by some form of tank arrangement. What has become clear is that there have been some problems with this and that there have been costs that have to be met although Mr Ahmed in his response indicated that those costs had been to an extent absorbed by the contractor and that he was only seeking to charge for some further servicing and call outs in the sum of £1,054.
21. Ms Mann's response to this was that this Property is new and if there was NHBC cover it should perhaps have dealt with this particular aspect. It was also not clear as to why this problem had arisen. In the end, however, Mr Ahmed agreed

that they would not seek to pass these costs on to the Applicants and would absorb them themselves.

GENERAL

22. We were advised during the course of the hearing that the Respondents have now instructed HML Property Management to take over the care of this Property. That, with respect to Mr Ahmed, seems to be a good idea. He did indicate that the Respondent was new to property management and that has certainly been borne out given the failings that we have recorded. However, we must give Mr Ahmed credit for the fact that he did not seek to prolong the hearing and made a number of concessions. It is hoped, therefore, that placing the management in the hands of others who are more experienced in this issue will result in there being no further problems that he will need to concern himself with.
23. Finally, we make an order under section 20C of the Act under the basis that we consider it just and equitable to make such an order given the outcome of the proceedings.
24. As we have indicated we have attached a schedule of what we find to be the costs payable by the leaseholders on an assumption that they pay a similar 14.3% as is set out in Ms Mann's lease. We understand that two of the flats are on assured short hold lettings presumably by the Respondent. The sums shown should be settled within the next 28 days, subject in the case of the accountancy charges only, to the provision of the accountancy invoice and Certificate referred to above, at paragraph 9. The Respondent is reminded that any demand made for both ground rent and service charges must contain the necessary statutory wording advising the leaseholders of their rights.

Judge:

Andrew
Dutton

AA
Dutton

Date:

2
February
20
23

ANNEX – RIGHTS OF APPEAL

1. 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 at the Regional Office which has been dealing with the case.
2. 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.
3. If the application is not made within the 28-day time limit, such application must include a request to 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.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie 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.

ITEM	COST	TENANT'S COMMENTS *	LANDLORD'S COMMENTS *	LEAVE BLANK (FOR THE TRIBUNAL)
Preparation of financial statement	£550.00	No invoice provided	Invoice attached	£550 payable subject to paragraph 9 of our decision
Yearly Maintenance of audio visual entry system	£145.00	Correctly demanded		£145.50 payable
Communal cleaning	£480.00 £80 due	This amount is for £80 x 6, the communal areas were only cleaned once in this period (29.1.22)	Correctly charged invoice attached already. This is a 3 rd party charge that is already paid.	£80 payable
Electricity for common parts	£537.00	£487 = 2 weeks - (April-May 2021) What are the solar panels doing?	This is acceptable costs for a block of this size. This is an annual figure. Energy costs	£300 payable for the period ending 28.2.22

			are on the rise.	
Emergency lights (bi-annual inspections)	£326.00	Correctly demanded		£326 payable
Fire safety maintenance (annual)	£0.00	???? why hasn't this been done!	This was covered by the contractor for this year hence not charged to the tenants.	£0
Garden/Estate maintenance (monthly)	£390.00 £195 due	This amount is for £65 x 6 until Feb 2022 – only done 3 times	Correctly charged invoice attached already. Tenant's are unnecessary challenging work done by 3 rd parties for which we have already paid.	£195 payable as agreed between the parties
General repairs and maintenance	£3210.00 £0	For drainage – this should be covered by insurance and snagging as an issue before all flats were occupied	It was blocked few times due to inappropriate items flushed through by the residents. However, we capped tenants annual charge to £1,200. Actual was £1,508 i.e. £308 discount per tenant which equates to £308 x 7 apartments = £2,156. This amount is absorbed by the contractor and a small portion is charged to the tenants for servicing and callouts.	The Respondent agreed to absorb these costs so £0 payable
Health and Safety/ Fire report	£0	Why hasn't this been done?	This was covered by the contractor for this year hence not charged to the	£0

			tenants.	
Management Fees	£1,848.00 £0	No invoice provided... What has been managed? Not communal cleaning, or health and safety checks. CCTV/bin store left to become infested with mice/rats despite us asking for a lock – we did this ourselves in the end.	Invoice attached, we have performed our duties and have had multiple callouts beyond our allocated time slots. We are already in a loss based on time cost of our employees. After providing so much service the tenants are disputing £264 charge per annum per apartment . It is a small block, and these charges are already unviable for us but still we provided full service. These cannot be rounded to zero as we are out of pocket. The tenants have made unnecessary call outs for which we haven't charged extra for the year. Requesting this to be removed is completely unfair request by the tenants.	£924 payable as set out at paragraph 19 of our decision
Buildings insurance	£2,240.83	Correctly demanded (although it would be good to know if this is a competitive quote)		£2,240.83 payable

Out of hours	£0.00	Correctly demanded		£0
Refuge bin hire	£257.80	Correctly demanded		£257.80 payable
Reserve fund	£100	Correctly demanded		£100 payable
Window cleaning	£360 £60 due	Unreasonable amount for cleaning the windows once 29.1.22	3 rd party general labour / contractor charges have skyrocketed from the time of covid and all companies are charging excessively due staff shortages. This is a 3 rd party service for which we have paid, and invoice is attached.	£100 payable as set out at paragraph 15 of our decision
Cosec	£100	No invoice provided for this part of accounting	Part of main accounting invoice attached.	Waived by the Respondent so £0 payable
Directors and Officers insurance	£0.00	Is this chargeable under lease?	No comments. No associated costs.	£0.00
Total	£3674.63 £10,544.63 =£525 each!£1,506.38			£5,214.13 ÷ 7 = £745.59, say £750 for each flat with any balance to be placed in the reserve account

- *1) Chargeable under lease?
- *2) Reasonable in amount/ standard?
- *3) Correctly demanded?

