



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

Case Reference : **LON/OOAH/LSC/2022/0248**

Property : **Flat 2, 15 Fairholme Road, Croydon, Surrey,
CR03PG**

Applicant : **Charlene Watson**

Respondent : **Althea Johnson**

Type of Application : **Determination under s 27A Landlord and Tenant Act
1985**

Tribunal Members : **Judge Shepherd- decision on the papers.**

Date : **12th March 2023**

DECISION

1. In this case the Applicant Charlene Watson (“ The Applicant”) the leaseholder of Flat 2 ,15 Fairholm Rd, Croydon, CR0 3PG (“The premises”) is seeking a determination pursuant to section 27A of the Landlord and Tenant Act 1985. The premises consist of a one bedroom first floor leasehold flat in a three floor converted house. The freeholder of the premises is Althea Johnson (“The Respondent”). The service charge years challenged are 2016 - 2020 inclusive. The total value of the dispute is said to be £3602.96. As well as acting for herself the Applicant represents the other leaseholders in the building namely Paul Schulz in Flat 1 and Hardeep Rayatt in Flat 3.
2. The primary basis of the Applicant’s challenge is that the Respondent has failed to make demands within the limitation period set by section 20B of the Landlord and Tenant Act 1985 which states the following:

20B.— Limitation of service charges: time limit on making demands.

(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.

(2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

3. The Respondent has taken no part in the proceedings despite apparently receiving the directions sent by the tribunal.
4. The service charges challenged are the following:

2020

Building insurance £202.66

Communal electricity £35.37

Management fees £50.70

Accountancy fees £41.18

Sinking fund for repairs £58.31

2019

Building insurance £236.01

Communal electricity £131.20

Management fees £70.08

Accountancy fees £40.79

2018

Buildings Insurance: £262.05

Communal electricity: £120.79

Management Fees: £72.43

Accountancy Fees : £40.39

Sinking fund for repairs:£83.29

Interest : £91.66

2017

Buildings Insurance: £165.30

Communal electricity :£36.30

Cyclical redecoration : £1103.93

Management Fees: £210.83

Accountancy Fees: £40

Sinking fund for repairs: £242.45

Interest: £322.80

2016

Communal electricity: £77.22

Interest :£112.27

5. In her application the Applicant states that service charge demands for these periods were not issued until the 24th of January 2022 and they were reviewed and re- sent on the 4th of May 2022. She also said that interest was not chargeable until 14 days after the demand has been made and in this case the demand was issued in January 2022 and interest was included and back dated for the periods above. In relation to 2017 the Applicant states that the Respondent failed to comply with section 20 of the Landlord and Tenant Act 1985 when carrying out cyclical decoration which cost more than £250 per leaseholder. She says there was no consultation.
6. In the bundle provided to the Tribunal there are a series of demands to each of the leaseholders dated the 13th of July 2022 with the sums ranging from £4154.12 in relation to Flat one; £8112.07 in the case of flat 2 and £503.65 in the case of flat 3. Attached to the demands are statements of account which breakdown the sums due. Although the Applicant states in the application that the first demand was sent in January 2002 it has not been included in the bundle and neither has the May demand.
7. As indicated already the Respondent did not respond by way of a statement of case and therefore the application is in effect unchallenged.
8. In a previous decision made by the Tribunal determining an application brought by the Applicant against the Respondent (LON/OHG/LSC/2017/0418) dated the 13th of February 2018 the Tribunal found amongst other things that a number of the charges were not due because they were time barred.

Determination

9. It does appear that applying the principles of Section 20B of the Landlord and Tenant Act 1985 most of the charges challenged by the Applicant are not due because they were not demanded until January 2022. Indeed, all costs incurred prior to July 2020 are time barred. This necessarily excludes the charges for 2016 to 2019. I invited submissions from the parties in relation to the charges for 2020 as it was not clear when those costs were incurred and therefore it was not possible to make an accurate determination in relation to that year. The Respondent made submissions but gave no evidence of demands made before January 2022. Accordingly the sums due for 2020 are also not due as they have not been justified. In relation to 2016 I am informed by the Applicant that the communal electricity charge was not dealt with in the previous Tribunal decision. This sum is also not due.

10. As a result of this need for clarification this decision is in draft form and further representations are invited from the parties.
11. It is not necessary to deal with the failure to consult or the interest points save that it does appear from the documents provided that no consultation took place in relation to the cyclical redecoration in 2017 and that interest only becomes due on demand accordingly is not possible under the lease for the respondent to apply interest retrospectively as she appears to have done.
12. Accordingly, the Tribunal determines that none of the sums claimed from the Applicant for the period 2017-2020 are due.

Judge Shepherd

12th March 2023

ANNEX - RIGHTS OF APPEAL Appealing against the tribunal's decisions

1. A written application for permission must be made to the First-tier Tribunal at the Regional tribunal office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.
3. 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.
4. The application for permission to appeal must state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers
5. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.