



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

Case reference : **LON/00AY/LSC/2022/0222**

HMCTS code (paper, video, audio) : **Face- to-Face**

Property : **Flats B & C, 90 Landor Road, London SW9 9PE**

Applicants : **(1) Hamed Moghadam (Flat B)
(2) Laura Appleton (Flat C)**

Representative : **Ms Amanda Gourley, counsel**

Respondent : **Assethold Limited**

Representative : **Mr Martin, counsel**

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 Tagliavini
Mrs S Phillips MRICS**

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

Date of hearing : **24 April 2023**

Date of decision : **22 May 2023**

DECISION

Decisions of the tribunal

- (1) The tribunal finds nil sums are payable by the first and second applicants to the respondent in respect of the sums of £662.97 and £782.97.
- (2) The tribunal finds the sum of £50 is payable by the first and second applicants in respect of administration fees incurred in 2021 and 2022 for the collection of the ground rent.
- (3) The tribunal finds nil sum is payable by the first and second applicant in respect of the £120 legal costs.
- (4) The tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 and paragraph 5 of Schedule 11 of the Commonhold and Leasehold Reform Act 2002, so that none of the landlord's costs of the tribunal proceedings may be passed to the lessees through any service charge.
- (5) The tribunal determines that the Respondent shall pay the applicants £300 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the applicants.

The application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service charges are payable by the applicants in respect of the service charge years 2021 and 2022. In the application form the total amount in dispute was stated as £1,876.44.

The hearing

2. The applicants were represented by Ms Gourley of counsel at the hearing and the Respondent was represented by Mr Martin of counsel. Both applicants attended the hearing and gave oral evidence to the tribunal. No representative from the respondent attended the hearing and no witness statement was provided.
3. At the hearing counsel for the respondent sought to rely on a document dated 24 July 2017 and Schedule of Insurance for the period 2020 to 2021. The applicant objected to the admission of this late evidence. The tribunal did not allow this late evidence to be relied upon by the respondent as no reason for its late service was provided and no person attended who could give evidence about it.

The background

4. The property which is the subject of this application is an early 1900's house converted into three flats on the ground, first and second floors. Flats B and C are held on 999-year leases with effect from 25 March 2011 with rising ground rent of £350 per annum (Flat C) and £450 (Flat B) being payable for the first twenty-five years of the term.* On 18 March 2020 the leaseholders as 90 Landor RTM Company Limited, acquired the Right to Manage the subject property at 90 Landor Road, London SW9 9PE. Previously, the property was managed by Eagerstates Limited on behalf the freehold respondent.

**The tribunal notes the particulars of the lease for Flat C recount the annual rent as £350 (three hundred pounds) (sic) during the first twenty five years of the term. However, no party sought to dispute the amount of ground rent claimed and in any event the tribunal does not have jurisdiction in respect of this.*

5. The applicants hold a long lease of their respective flats which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease and will be referred to below, where appropriate.

The issues

6. At the start of the hearing the parties identified the relevant issues for determination as follows:

The first applicant

- (i) The payability of service charges demanded by the respondent on 24 February 2021 in the sum of £662.97 as 'amount outstanding from previous account.'
- (ii) £240 management fee for the period 2021-22 (now conceded by the respondent to have been demanded in error).
- (iii) £60 administration fee for collection of (ground) rent for each year (2021 and 2022).

The second applicant

- (iv) The payability of service charges demanded by the respondent on 24 February 2021 in the sum of £733.47 as 'amount outstanding from previous account.'

- (v) £240 management fee for the period 2021-22 (now conceded by the respondent to have been demanded in error).
- (vi) £60 administration fee for collection of (ground) rent for each year (2021 and 2022).

The first and second applicants

- (vii) The respondent has since claimed the sum of £120 legal costs from each applicant
7. Having heard evidence and submissions from the parties and considered all of the documents provided, the tribunal has made determinations on the various issues as follows.

The tribunal's decisions

The payability of service charges demanded by the respondent on 24 February 2021 in the sum of £662.97 and £733.47.

The tribunal's decision

7. The tribunal determines that the amount payable in respect of these two sums said to be 'amounts outstanding from previous account' is nil.

Reasons for the tribunal's decision

8. The tribunal finds from the documentation disclosed by the respondent, nil monies were owed from the first and second applicant. In particular, the tribunal finds that in a Statement of Account dated 19/09/2022 from Eagerstates Ltd the balance said to be owing in respect of the property as of 23/03/2020 was nil and as of 18 March 2020 the applicant's RTM company had acquired the 'right to manage.'

£60 administration fee for collection of (ground) rent for each year (2021 and 2022).

The tribunal's decision

9. The tribunal finds the sum of £50 by way of administration charge for each of the years 2021 and 2022 is payable by the first and second applicant (less any payments made).

Reasons for the tribunal's decision

10. The tribunal finds the sums of £50 by way of administration fees in 2021 and 2022 are due from the first and second applicants. The tribunal finds ground rent was demanded by a letter dated 24 February 2021 for the year 2021-2022 and 1 March 2022 for the year 2022-2023 in which the ground rent and administration charge was due on 25 March of each year, being the commencement period of the lease. The tribunal finds clause 5(3)(f)(i) makes provision for the imposition of fees for the collection of the rent and must not exceed 15%. The tribunal finds the sum of £60 exceeds this limit and therefore reduced the administration charge to £50 in 2021 and 2022 as being a reasonable sum for this routine administrative task.

The sum of £120 legal costs from each applicant

The tribunal's decision

8. The tribunal determines that the amount payable in respect of legal costs is nil.

Reasons for the tribunal's decision

9. The tribunal finds these costs were said by the respondent to represent the Respondent's initial costs of arranging the file for solicitors in advance of proceedings for possession of the applicants' flats as set out in a letter from Eagerstates Limited dated 19 April 2022. However, the tribunal finds the purported claim for breaches of lease due to non-payment of service charges, was wholly misguided and unreasonable and are therefore these costs are not payable by the first and second applicants.

Application under s.20C and refund of fees

10. At the end of the hearing, the Applicant made an application for a refund of the fees that he had paid in respect of the application/hearing¹. Having heard the submissions from the parties and taking into account the determinations above, the tribunal orders the respondent to refund any fees paid by the applicant within 28 days of the date of this decision.
11. In the application form at the hearing, the applicants applied for an order under section 20C of the 1985 Act and paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002. Having heard the submissions from the parties and taking into account the determinations above, the tribunal determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act, so that the respondent may not pass any of its

¹ The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

costs incurred in connection with the proceedings before the tribunal through the service charge.

Name: Judge Tagliavini

Date: 22 May 2023

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).