



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

Case reference : **LON/00AF/LSC/2022/0381**

**HMCTS code
(paper, video,
audio)** : **V: CVPREMOTE**

Property : **19 Weston Road, Bromley, Kent, BR1
3RH**

Applicant : **Mario Dzeba**

Representative : **Litigant in person**

Respondent : **Clarion Housing Association Ltd.**

Representative : **Stefan Liberadzki (Counsel instructed
by Clarke Willmott LLP)**

Type of application : **S.27A Landlord and Tenant At 1985 –
Determination of Service Charge**

**Tribunal
member(s)** : **Judge Dutton
Mr A Lewicki
BSc(Hons) FRICS MBEng
Judge MacQueen**

Venue : **10 Alfred Place, London WC1E 7LR
(Remote CVP Hearing)**

Date of decision : **20th July 2023**

DECISION

This has been a remote video hearing which has been consented to by the parties. The form of remote hearing was Cloud Video Platform (CVP) (**V: CVPREMOTE**). A face-to-face hearing was not held because of a train strike

taking place on 20th July 2023. The documents that the Tribunal were referred to are in a bundle of 191 pages, the contents of which have been noted.

SUMMARY OF DECISION

The tribunal determines that the application is dismissed. This is because it is not possible to say whether the costs are reasonable as, at this stage, the extent and costs of the work are unknown. This decision is made for the reasons set out below.

Background

1. Mario Dzeba, the applicant, is a leaseholder of 19 Weston Road, Bromley, Kent, BR1 3RH (the Property). The Property is owned by Clarion Housing, the respondent, and is one of 28 residential units situated over 5 blocks, 10 of the units are leasehold and form part of the Respondent's freehold title under SGL555392.
2. It is not disputed that Clarion Housing appointed United Living South Ltd to carry out planned and cyclical works, and that this appointment was made following a consultation processes and competitive tendering in 2018-19. It is also not disputed that the lease provides for Mario Dzeba to pay a service charge (schedule six of the lease) and that this is calculated by reference to the rateable value or floor area of the flats and this is currently 4.5358%.
3. A notice of intention that Clarion Housing were carrying out works was served on Mario Dzeba (section 20 notice) on 6th October 2022. Within the bundle (page 21), Mario Dzeba states that the consultation period is void because the letter notifying him was not received until 15th October 2022. However, at the hearing today, Mario Dzeba confirmed that he was not taking issue with the consultation process.

The Application

4. On 21st November 2022, Mario Dzeba made an application to the tribunal for determination of the reasonableness of a service charge under the provisions of s27(A)(3) of the Landlord and Tenant Act 1985

(the Act), for works that were yet to be completed . Mario Dzeba confirmed that he does not object to the works, however he takes issue with the cost and necessity of some of the work. A schedule setting out each of the parties position on the disputed service charges is contained within the bundle at page 142.

5. In the application the tribunal is asked to determine the service charge for 2022 and 2023. However, no demand for payment has been made by the landlord. Sophie Hardy, Lead Planned Investment Manager for Clarion Housing told the tribunal that whilst the internal panting work and electrical work had been completed, the external work had not yet commenced. Moreover, the initial consultation related to repainting the exterior of the property. However, when initial remedial work to remove the paint began, the paintwork was found to be in a worse condition than first thought. Following further investigation Sophie Hardy told the tribunal that the decision has been taken to remove the paint and leave the brickwork exposed rather than repainting the exterior.
6. At this stage, it is not known what the cost of this work will be, and the cost could be higher than the estimate provided within the consultation documentation. However, Sophie Hardy confirmed that she did not anticipate that there would be a need for any further consultation because even if the work was more expensive, Clarion would consider the costs in light of the consultation exercise already undertaken.

Decision

7. The tribunal is therefore not able to determine the reasonableness of the work because no demand for payment has been made, and the nature of the work has changed. However, this will not preclude Mario Dzeba making a further application to the tribunal for determination of the reasonableness of the service charge once the amount to be charged is known and a demand has been served.

Costs - Section 20C

8. Mario Dzeba did not seek an order under section 20C in his application. However, he did make such an application at the hearing and Clarion Housing did not seek costs and did not object to such an order being made.. Accordingly, the tribunal makes an order under s20C of the Act that all or any costs incurred or to be incurred by the landlord in connection with these proceedings are not to be regarded as relevant costs to be taken into account when determining the amount of any service charge payable by the tenant or any other person specified in the application.
9. Whilst the tribunal is not able to make a determination on the service charge today, the following comments are made:

Scaffolding

10. The tribunal was told that the scaffolding has been erected at the property for six months and the start date of the work is not known (although the work has now been commissioned). Living in a property covered with scaffolding will inevitably interrupt the tenants' enjoyment of the property and so Clarion Housing is urged to proceed with the works as quickly as possible. It is noted that Clarion accepts that any charges from the scaffolding being erected for longer than necessary will not be passed on to the tenants.

Payment of Service Charge

11. Clarion Housing confirmed today that it was not possible to enter into a payment plan with tenants to spread the cost of the works, however they did confirm that the demand for payment will not be made until the September following completion of the work. This enables tenants to make provision for the payment of the service charge.

Calculation of Cost of Paint Removal

12. Whilst the cost of removing the paint from the exterior of the property is not known at this stage, Clarion Housing may wish to obtain the cost of this as a lump sum rather than at a cost per metres square. This will of course be a matter for them.

Judge Dutton

20 June 2023

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.