



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

Case reference : **LON/00BK/LSC/2022/0391**

Property : **3rd Floor Flat, 79 Sutherland Avenue,
London W9 2HG**

Applicant : **Naim Shams Jamal**

Representative : **N/A**

Respondent : **79 Sutherland Avenue Residents
Company Limited**

Representative : **Ms Christy Burzio, counsel**

Type of application : **For the determination of the liability to
pay service charges under section 27A of
the Landlord and Tenant Act 1985 and
paragraph 5 of Schedule 11 of the
Commonhold and Leasehold Reform
Act 2002**

Tribunal members : **Judge Tagliavini
Mrs A Flynn MRICS**

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

Date of decision : **11 August 2023**

DECISION

Decisions of the tribunal

- (1) The tribunal makes the determinations as set out under the various headings in this Decision.
 - (2) The tribunal does not make 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.
 - (3) The tribunal does not make any order for the reimbursement of the applicant's fees.
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The application

1. The applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ('the 1985 Act') and paragraph 5 of Schedule 11 of Commonhold and Leasehold Reform Act 2002 ('the 2002 Act') as to the amount of service charges and administration charges are payable by the applicant in respect of the service charge years .

The hearing

2. The applicant appeared in person at the hearing and was assisted by Mr Intrez Rajabek. The respondent was represented by Ms Burzio of counsel.

The background

3. The property which is the subject of this application is building converted into flats.
4. Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
5. The applicant holds a long lease of the property dated 11 June 1979 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:
- (i) The payability and/or reasonableness of service charges for major works and annual service charges amounting to £26,8468.95 representing the applicant's liability towards the service charges incurred in the service charge years 2020, 2021 and 2022 and includes the sum of £583.10 from the period 29/09/2019 to 15/07/2020.
 - (ii) Whether a previous payment of £1,036.90 made in September 2022 by the applicant has been credited to the applicant's service charge account.
 - (iii) Whether the demands for payment are valid having regard to the operation of s.20B of the Landlord and Tenant Act 1985.
 - (iv) Whether an order under s.20C of the Landlord and Tenant Act 1985 should be made.
 - (v) Whether an order for the reimbursement of the applicant's fees should be made.

Background

6. The subject premises comprises a third (top) floor flat in a house converted into flats. The building was managed on behalf of the respondent by JFM Block and Estate Management but since 2021 has been managed by Bawtry's Estate Management. The applicant did not dispute the lease requires him to pay a contribution to the service charges for the services provided by the respondent.
7. The applicants dispute arises from the major works for external repairs and redecoration of the building carried out by Woodnut Construction & Development Limited in 2019/2020 in the total sum of £76,187.67 of which the applicant's share is 1/5 i.e., £15,237.44 (comprising £1,697.80 and £13,539.65). The remainder of the sum in dispute is said to comprise the annual service charges due from the applicant in the following amounts:
- (i) Service charge for the period 29/09/2022 to 24/03/2023 in the sum of £1,036.90
 - (ii) Service charge for the period 25/03/2022 to 28/09/2022 in the sum of £1,036.90

- (iii) Service charge for the period 24/06/2021 to 24/12/2021 in the sum of £1,112.40
 - (iv) Balancing charge for the year 2020 in the sum of £755.60
 - (v) Service charge for the period 29/09/2020 to 24/03/2021 in the sum of £4,889.20
 - (vi) Service charge for the period 25/03/2020 to 28/09/2020 in the sum of £4,889.20
 - (vii) Balancing charge for the year 2019 in the sum of £796.20
8. The applicant variously asserted the works were only 30% completed and unreasonable in amount due to 'gross mismanagement.' The applicant also asserted that he had previously paid all annual service charges and/or sums paid had not been credited to his account and therefore no sums were owed in respect of these amounts.
9. Having heard evidence and submissions from the parties and considered the bundle of 171 electronic pages provided by the applicant and the bundle of 726 electronic pages provided by the respondent the tribunal has made determinations on the various issues as follows.

Decisions of the tribunal

- 10. The tribunal finds the cost of the major works carried out by Woodnut Construction & Development are reasonable.
- 11. The tribunal finds the costs of the major works have been validly demanded and are payable by the applicant.
- 12. The tribunal finds all sums paid by the applicant have been credited to his service charge account.

The tribunal's reasons

- 13. The tribunal finds the major works in dispute were first subject to a Notice of Intention dated 15 June 2017 and thereafter were subject to a delay in a Notice of Estimates being sent as this is dated 8 May 2019. Subsequently works were carried out and completed in the period 2019/2020 by Woodnut Construction & Development Limited in the sum of £76,187.21. This sum was for exterior works only as the interior works, initially included in the Notice of Intention were put 'on hold' to a later unspecified date. This sum reflects the reduction in the quoted sum of £113,979.60 for both exterior and internal works, although it reflects an increase on the original quote for both external and interior

works provided by Woodnut Construction Limited of £89,485.20 in November 2017.

14. The tribunal finds that although the works was delayed in being carried out, the tribunal does not find this caused an unreasonable increase in costs, and the tribunal is aware of the lease clause which prevents the respondent from seeking payment of the cost of the works before sums have been incurred and the arrears of service charges accrued by the applicant and resulting a claim in the county court which was compromised by a Tomlin Order.
15. Having had regard to the respondent's Major Works Schedule, the tribunal finds the works carried out were reasonable in extent and cost including the provision and scaffolding required to carry out the works. The tribunal finds the applicant's reference to the works being only 30% completed is based on information passed to him by a neighbour and is without any evidential foundation.
16. The tribunal finds the demands sent to the applicant for payment of service charges in dispute are valid and in accordance with the terms of the lease. The demands made for payment of the sums in dispute are dated 15/7/2020; 24/03/2021; 28/06/2021; 1/09/2021 and 10/03/2022.
17. The tribunal finds the applicant has misunderstood the service charge accounts that were provided by the respondent for the years 2019; 2020; 2021 and 2022 as well as the budgeted accounts for 2019, 2020 and 2021. The tribunal finds the service charge accounts, the demands for payment are comprehensive and establish the sums incurred by the respondent, how and when they have been incurred and the sum payable and paid by the applicant.
18. The tribunal finds the applicant has not been charged twice either for the same works or for the same period and concluded the sum of £26,8468.95 is payable by the applicant (less any sums paid towards it since this application was made).

Application under s.20C and refund of fees

19. The tribunal also considered application for a refund of the fees the applicant had paid in respect of the application/ hearing¹. Having taken into account the determinations above, the tribunal does not order the respondent to refund any fees paid by the applicant.
20. In the application form the applicant applied for an order under section 20C of the 1985 Act. Having taken into account the determinations

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

above, the tribunal does not consider it just and equitable to make an order pursuant to s.20C of the Landlord and Tenant Act 1985.

Name: Judge Tagliavini

Date: 11 August 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).