



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

Case Reference : CAM/26 UH/LIS/2022/0019

Property : 6 Ross Court, Stevenage, Hertfordshire SG2 0HD

Applicant : Roger Glazebrook

Respondents : Clarion Housing Association Limited

Application : Application, pursuant to s27A of the Landlord & Tenant Act 1985, to determine the liability to pay and reasonableness of service charges and administration charges.

Tribunal Members : Judge Stephen Reeder
Mrs M Wilcox BSc MRICS

Date of hearing : 5 October convened remotely by CVP platform

Date of Decision : 5 October 2023

Date Written : 9 October 2023

DECISION

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DECISION

Service charges payable in respect of the inspection and servicing of the fire protection system

1. The “fire protection” (adopting the name used in the demands) costs levied as a service charge appears to have three components ; the capital cost for the system, the annual inspection and servicing cost, and the cost of any necessary repairs.
2. The statement of service charges issued in November 2004 for the commencement of the tenancy in January 2005 confirmed that the capital cost of the fire protection system of £30,472 for Ross Court, resulting in a cost of £2,344 for each of the 13 bungalows, is to be recovered over 20 years at an annual cost of £1,523.60 for Ross Court, resulting in an annual cost of £134.78 or £2.81 per week based on 48 weekly payments for each of the 13 bungalows. The Applicant did not challenge this and it is payable and reasonable as the actual capital cost of installation. The tribunal notes that the capital cost will have been discharged by the end of the 2024-2025 accounting year and expects that this will be reflected in the future service charge demands.
3. The service charges demanded in relation to the fire protection costs appear to include additional costs which may relate to repair costs or other responsive costs. Given the respondent landlord’s failure to engage in the proceedings the tribunal had no evidence before it relating to actual repairs or other works and/or costs recharged and so could not properly reach any determination on such costs. The tribunal records that the applicant reserves the right to challenge such costs and invites the respondent to provide to him proof of the actual costs incurred and recharged.
4. The applicant has challenged the sums demanded in the service charge in respect of the annual inspection and service of the fire protection system in 6 Ross Court. The cost of £342.72 for the year 2016-2017 was accepted by the applicant during the proceedings as he recalled there may have been some costs in addition to the inspection and service. In relation to the remaining years the tribunal determines that the following annual sums are payable and reasonable for the annual inspection and servicing cost -

2017-2018

£325 (£6.77 per week)

2018-2019

£325 (£6.77 per week)

2019-2000

£350 (£7.29 per week)

2020-2021

£350 (£7.29 per week)

2021-2022

£375 (£7.81 per week)

2022-2023

£400 (£8.33 per week)

Fees and costs

5. The applicant has paid both an issue fee of £100 and a hearing fee of £200. Having regard to Rule 13(2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, to the tribunal's determinations and the outcome of the proceedings, and to the respondent landlord's failure to comply with directions orders, failure to comply with subsequent correspondence, and failure to attend the hearing, the respondent is ordered to re-imburse those costs to the applicant.
6. As a result of its failure to comply with directions and otherwise engage with these proceedings the respondent landlord has not incurred any costs in relation to the proceedings. The tenancy makes no provision for the costs of tribunal proceedings to be recovered as a service or administration charge.

REASONS

The application, the property & the parties

7. The application is brought pursuant to s27A of the Landlord & Tenant Act 1985 to determine the liability to pay and the reasonableness of service charges and administration charges demanded in respect of 6 Ross Court, Stevenage, Hertfordshire SG2 0HD ('the property').
8. The property is a bungalow providing 2 bedrooms. It is located in a development named Ross Court which provides 13 bungalows, each providing 2 bedrooms. Some of the tenant occupiers of these properties need support and some do not. All of the occupiers are in their senior years.
9. The applicant is Roger Glazebrook ('the applicant'). He has occupied the property since 24 January 2005 pursuant to an assured (non-shorthold) periodic tenancy dated 19 January 2005. That tenancy was granted by the William Sutton Housing Association Limited. The applicant was the first occupier of the premises post construction and has occupied the property since.
10. At some point in the past the William Sutton Housing Association Ltd evolved in Affinity Sutton which merged with the Circle 33 Housing Trust in 2016 to form Clarion Housing Association Ltd (the Clarion Housing Group).
11. Clarion Housing Association Ltd is the landlord and is the respondent in these proceedings (hereafter 'the respondent'). By email to the tribunal dated 9 January 2023 the applicant confirmed that Clarion Housing Association Ltd has been his landlord since 2016-2017 and throughout the relevant period of the challenge. This was confirmed in his oral evidence during the hearing when he was able to find and read charge demands confirming that Clarion Housing Association Ltd is the landlord who has demanded service charges for the accounting years 2016- 2017 to 2022-2023 inclusive.

12. The application relates to the accounting years 2017-2018 to 2022-2023 inclusive. It challenges the reasonableness of the service charge levied in respect of ‘fire protection’ (adopting the name used in the demands) for those years.

The procedural history

13. The application was received on 20 December 2022. Judge Wyatt made a directions order on 24 April 2023 which included the following –
- A direction in preamble paragraph (3) requiring that the schedule of non-supported service charges referred to in the tenancy agreement should be filed
 - A direction in preamble paragraph (3) stating that if Clarion Housing did not assume the landlord rights and obligations of Affinity Sutton in relation to the subject matter of the application, it must inform the tribunal by 3 May 2023.
 - Directions to the applicant tenant by paragraph 2 requiring the filing of a Scott schedule, a statement addressing the relevant tenancy provisions, legal submissions and any other matters relied upon, and any signed statements of witnesses to be relied upon.
 - Directions to the respondent landlord by paragraphs 4 and 6-8 requiring the filing of the filing of a scott schedule, a copy of the tenancy, a copy of the service documents giving rise to the service charges, a statement addressing the relevant tenancy provisions, legal submissions and any other matters relied upon, any signed statements of witness to be relied upon, and the preparation and filing of a hearing bundle.
14. Under cover of a letter dated 9 March 2023 the respondent filed a copy of the tenancy agreement. It did not include the schedule of non-supported services referred to in that agreement.
15. By email from the tribunal dated 11 July 2023 the respondent was notified that it had failed to comply with case management directions made on 24 April 2023 including the requirement to file a hearing bundle by 28 June 2023. It was now directed to do so by 19 July 2023, in default of which it was warned that the tribunal may bar it from further participation in the proceedings and/or determine relevant matters against it at the hearing.
16. By letter dated 25 July 2023 the tribunal notified the respondent that it remained in default of the directions order despite further directions and a warning on 11 July 2023. It had defaulted including in failing to prepare and file a hearing bundle. This letter warned the respondent in terms that the tribunal may bar it from further participation in the proceedings and/or determine relevant matters against it at the hearing.
17. Despite the directions orders the respondent landlord has not filed with the tribunal the schedule of non-supported services, any Scott schedule responding to the application, any statement addressing the relevant tenancy provisions, any legal submissions on liability and reasonableness, or any statements of witnesses to be relied upon. Other than filing the tenancy agreement in March 2023 the respondent has failed to comply with directions or otherwise reply to the tribunal orders and directions or otherwise engage with the proceedings. It failed to attend the hearing despite notice of the same and without explanation.
18. The tribunal convened a remote video hearing by CVP (cloud video platform) on 5 October 2023. Neither party requested an in-person hearing in response to the directions order. Having regard to the issues raised and evidence and information filed on the application the tribunal is satisfied that the remote video hearing is an appropriate and proportionate procedure to determine these

proceedings. Neither party requested an inspection of the property. The tribunal is satisfied that an inspection was not necessary in order to determine the issues raised in the application. The tribunal made its determinations on 5 October 2023.

The matters in issue

19. The application concerns the accounting years 2017-2018 to 2022-2023 inclusive. Mr Glazebrook challenges the reasonableness of the service charge levied in respect of the charges for fire protection specifically for the annual inspection and servicing of the fire protection system in his bungalow and repairs for those years. In his application those charges are stated to be as follows –

2017-2018

£684 p/a (£14.25 per week charged for 48 weeks per year)

2018-2019

£739.20 p/a (£15.40 per week)

2019-2020

£621.12 p/a (£12.94 per week)

2020-2021

£806.88 p/a (£16.81 per week)

2021-2022

£1149.12 p/a (£23.95 per week)

2022-2023

£631.20 p/a (£13.15 per week)

20. In respect of each accounting year the application states *“the charge for fire protection was excessive.... the system was serviced once a year, taking less than 30 minutes....an online search in 2022 shows that the servicing of a sprinkler system costs approximately £150 p/a”*.

The hearing

21. The applicant has represented himself. The respondent has failed to attend the hearing despite notice of the same and without explanation.
22. Given the respondent’s failure to prepare and file a hearing bundle, the applicant has used his best endeavours to do so in response to Judge Wyatt’s directions order dated 24 April 2023. The tribunal has had regard to the documents filed in that bundle.
23. The applicant has confirmed that he does not dispute liability to pay a service charge in respect of the costs of the fire protection system. The capital cost was identified and explained in an explanatory estimate of service charges dated November 2000 which he has produced to the

tribunal. The service charge in respect of the fire protection system is described as “the provision and servicing of a sprinkler system in each of the bungalows [located in Ross Court]”.

24. The applicant has confirmed that his bungalow provides 2 bedrooms, living room, kitchen, hallway, wet room/bathroom and a WC. He has fire sprinklers in the ceilings of each room other than the wet room/bathroom. There is a pressure tank and valve and pressure gauge installation in the hallway cupboard. He has a light and audio alarm on the exterior of the property to alert any fire. He has provided photographs to the tribunal which show this installation.
25. The applicant has confirmed that the sprinkler system in his bungalow is inspected and serviced once each year. One person visits. They appear to be from different contractors in different years given their corporate names and vehicles. They are not from any direct labour service of the respondent. That person is in the property for approximately 20 minutes. He brings a hose and bucket and adjustable spanner. He opens the cabinet in the hallway and fits the hose to the system. He opens and closes the valves. The system alarm goes off. He resets the system and leaves it in working order. Mr Glazebrook recalls a visiting engineer inspecting the sprinkler fittings in the rooms only once in the relevant period. He does not recall them ever inspecting or testing the smoke detector located in his hallway. Save for 2016-2017 he does not recall any extended or repeated visit to deal with any defects, repairs or issues arising in any year during the relevant period. He states that the other bungalows in Ross Court are not inspected and serviced on the same day as all of the occupants are in their senior years, many have some degree of physical disablement, and several are housebound, and so most require support for any such visit.
26. The applicant’s submission on reasonableness and value for money was concise. “It is not a complex job, and you don’t have to be a genius”. During the hearing he confirmed that the proposed reasonable fee of £150 per annum include in the written application was based on cursory inquiries and internet searches. He does not provide any market comparator or estimate from a suitable contractor based on the system in his bungalow. During the hearing, after discussing the detail of the sprinkler system and of the annual inspection visits, he adopted a range of £300-£500 for a reasonable charge for the job as described.
27. In relation to the year 2016-2017 and the total fire protection cost of £342.72 per annum (£7.14 per week spread over 48 weeks) during the hearing this was accepted by the applicant as reasonable as he recalled there may have been some costs in addition to the inspection and service. Accordingly, the tribunal did not consider it further.

The tenancy

28. The tribunal is provided with a copy of the assured non-shorthold (periodic weekly) tenancy granted by William Sutton Housing Association Ltd to Mr Roger Glazebrook and Mrs Kay Glazebrook and dated 19 January 2005.
29. Clause 1.03 provides the rent is due in advance on Monday of each week. The landlord covenant set out in clauses 2.10-2.12 do not include any obligation to provide or maintain a fire protection system. Clause 1.01 provides that rent includes the non-supported service charge. Clause 1.05 provides that the landlord will provide non-supported services as set out in the Schedule to the tenancy agreement. The respondent has failed to file that schedule. The applicant does not have a copy to file. The tribunal assumes for the purposes of this Decision that the fire protection system is a non-supported service provided pursuant to that Schedule. The context of the tenancy, of the staggered re-charge for capital cost and of the annual inspections supports that assumption. Clause 1.6(a) provides that the landlord may increase or add to or remove reduce or vary the non-supported services after consulting the affected tenants. Clause 1.6(e) provides that the cost of

non-supported services shall be apportioned equally between all of the affected premises, unless detailed otherwise in the Schedule. Interpreting the language of the tenancy provisions within the context of the installation and service and reported annual inspections and resulting service charge demands the tribunal determines that the 'fire protection' charge is a non-supported service charge and a variable service charge and so falls within the jurisdiction of this tribunal on this application challenging the reasonableness of the sums charged.

30. In interpreting the lease the tribunal has careful regard to the decision of the Upper Tribunal in *Arnold v Britton [2015] AC 1619* and so directs itself to the natural and ordinary meaning of lease clauses under consideration, the other relevant provisions in the lease, the overall purpose of the clause, the related provisions, the lease as a whole, and further has regard to the facts and circumstances known or assumed by the parties at the time the lease was executed, and to commercial common-sense (disregarding any subjective evidence of any party's intentions).

The law

31. The Landlord & Tenant Act 1985 as amended by the Commonhold & Leasehold Reform Act 2002 (hereafter 'the LTA 1985') sets out the Tribunal's jurisdiction to determine liability to pay service charges. Section 27A(1) of 1985 Act provides as follows –

An application may be made to a leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to-

- (a) the person by whom it is payable,
- (b) the person to whom it is payable,
- (c) the amount which is payable,
- (d) the date at or by which it is payable, and
- (e) the manner in which is payable.

32. Section 18 sets out the meanings of 'service charge' and 'relevant costs'.

33. Section 19 sets out that jurisdiction to limit service charges to those relevant costs which are reasonably incurred and to those which arise from works and services of a reasonable standard.

34. Section 20C LTA 1985 sets out the jurisdiction, where the tribunal considers that it is just and equitable to do so, to grant an order providing that all or any of the costs incurred by the landlord in connection with proceedings before this tribunal are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the lessee or any other person or persons specified in the application. Paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 provides jurisdiction for the Tribunal to make an order to reduce or extinguish the tenant's' liability to pay an administration charge in respect of litigation costs.

35. Part 1 of Schedule 11 to the Commonhold & Leasehold Reform Act 2002 (hereafter 'CLARA 2002') sets out the Tribunal's jurisdiction to determine the payability and reasonableness of administration charges. Section 5(1) of Part 1 to Schedule 11 provides –

An application may be made to a leasehold valuation tribunal for a determination whether an administration charge is payable and, if it is, as to--

- (a) the person by whom it is payable,
- (b) the person to whom it is payable,
- (c) the amount which is payable,
- (d) the date at or by which it is payable, and
- (e) the manner in which it is payable.

36. Section 1 provides a definition of ‘administration charge’. Sections 2 & 3 provide that a variable administration charge is payable only to the extent that the charge specified in lease is reasonable, that the formula specified for determining the charge is reasonable, and that amount of the charge is reasonable.

Discussion and determinations

37. The “fire protection” (adopting the name used in the demands) costs levied as a service charge appear to have three components ; the capital cost for the system, the annual inspection and servicing cost, and the cost of any necessary repairs. The statement of service charges issued in November 2004 for the commencement of the tenancy in January 2005 confirmed that the capital cost of the fire protection system of £30,472 for Ross Court, resulting in a cost of £2,344 for each of the 13 bungalows, is to be recovered over 20 years at an annual cost of £1,523.60 for Ross Court, resulting in a cost of £2.81 per week for each of the 13 bungalows. The Applicant did not challenge this and it is payable and reasonable as the actual capital cost of installation. The tribunal notes that the capital cost will have been discharged by the end of the 2024-2025 accounting year and expects that this will be reflected in the future service charge demands. The service charges demanded in relation to the fire protection costs appear to include additional costs which may relate to repair costs or other responsive costs. Given the respondent landlord’s failure to engage in the proceedings the tribunal had no evidence before it relating to actual works and/or costs recharged and so could not properly reach any determination on such costs. The tribunal records that the applicant reserves the right to challenge such costs and invites the respondent to provide to him proof of the actual costs incurred and recharged.

38. In any event Mr Glazebrook’s application distils down to a challenge the sums demanded in the service charge in respect of the annual inspection of the fire protection system in 6 Ross Court.

39. The nature and extent of the fire protection system is clear on the evidence. There is a pressure tank and valve and pressure gauge installation in the hallway cupboard which serves sprinklers located in the ceilings in each of the 2 bedrooms, living room, kitchen, and hallway. There is a light and audio alarm on the exterior of the property to alert any fire.

40. The nature and extent of the annual inspection is described by the applicant in detail. The inspection and service is carried out once each year. One person visits. They appear to be from different contractors in different years given their corporate names and vehicles. They are not from any direct labour service of the respondent. That person is in the property for approximately 20 minutes. He brings a hose and bucket and adjustable spanner. He opens the cabinet in the hallway and fits the hose to the system. He opens and closes the valves. The system alarm goes off. He resets the system and leaves it in working order. Mr Glazebrook recalls a visiting engineer inspecting the sprinkler fittings in the rooms only once in the relevant period. He does not recall them ever inspecting or testing the smoke detector located in his hallway. He does not recall any extended or repeated visit to deal with any defects, repairs or issues arising in any year during the relevant period. He states that the other bungalows in Ross Court are not inspected and serviced on

the same day as all of the occupants are in their senior years, many have some degree of physical disablement, and several are housebound, and so most require support for any such visit.

41. The applicant's submissions on a reasonable fee for that annual inspection and service are of limited assistance being based on cursory inquiries and internet searches and discussion of the nature and extent of the inspection during the hearing. Ultimately, he adopted a range of £300-£500 for a reasonable charge for the job as described. The respondent has not engaged in any way on the issue of the reasonableness of the service charges. It follows that the tribunal must do the best it can on the evidence and information before it and having regard to its own knowledge of the market as an expert tribunal.
42. The tribunal determines that an annual inspection and service of a fire protection system which as this is a requirement of good landlord practice. This is especially so given the nature of Ross Court, providing bungalows for senior tenants some of whom need support. The description of the system is detailed and accepted as accurate. The description of the annual visits is detailed, is typical for an inspection of this type, and is accepted as accurate. The respondent is a large-scale housing association who might reasonably be expected to have a technically and commercially sound maintenance capability and a housing stock which allows for some economies of scale. Having regard to the evidence and information before it and applying its knowledge as an expert tribunal, the tribunal determines that the following sums are payable and reasonable for that annual inspection cost. For 2017-2018 £325 (£6.77 per week), for 2018-2019 £325 (£6.77 per week), for 2019-2000 £350 (£7.29 per week), for 2020-2021 £350 (£7.29 per week), for 2021-2022 £375 (£7.81 per week), and for 2022-2023 £400 (£8.33 per week).

Fees and Costs

43. The applicant has paid both an issue fee of £100 and a hearing fee of £200. Having regard to Rule 13(2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, to the tribunal's determinations and the outcome of the proceedings, and to the respondent landlord's failure to comply with directions orders, failure to comply with subsequent correspondence, and failure to attend the hearing, the respondent is ordered to re-imburse those costs to the applicant.
44. As a result of its failure to comply with directions and otherwise engage with these proceedings the respondent landlord has not incurred any costs in relation to the proceedings. The tenancy makes no provision for the costs of tribunal proceedings to be recovered as a service or administration charge.



Stephen Reeder
Judge of the First Tier Tribunal, Property Chamber

9 October 2023

ANNEX - RIGHTS OF APPEAL

- a. **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.**
- b. **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.**
- c. **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.**
- d. **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.**