



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

Case References : **BIR/00FN/LIS/2022/0022
BIR/00FN/LAC/2022/0003**

Court Reference : **H79YX562 (Romford County Court)**

Subject Properties : **6 and 9 St Nicholas Apartments
140B Fosse Road North
Leicester
LE3 5ER**

Applicants : **(1) Adriatic Land 1 (GR3) Limited
(2) St Nicholas Apartments
Management Ltd**

Representative : **J B Leitch Limited**

Respondents : **(1) Baladas Kumarasamy
(2) Anpuchcelvi Baladas**

Type of Application : **(1) Liability to pay service charges
(2) Liability to pay administration
charges
(3) Liability to pay interest
(4) Liability to pay fees and legal costs
(All on transfer from the County
Court)**

Tribunal Member : **Deputy Regional Judge Nigel Gravells**

Date of Order : **23 November 2023**

ORDER AND DECISION

Background

- 1 In July 2021 the Applicants issued proceedings against the Respondents in the County Court, claiming –
 - (i) arrears of service charges in the sum of £4,986.95;
 - (ii) administration charges in the sum of £240.00;
 - (iii) interest in the sum of £437.18 and accruing;
 - (iv) legal costs in the sum of £1,476.00 and accruing.
- 2 By Order dated 27 June 2022, Deputy District Judge Walton (sitting in the County Court at Romford) transferred the outstanding matters to the First-tier Tribunal.
- 3 On 23 August 2022 the Tribunal issued Directions for the determination of the matters in dispute. Although compliance with those Directions was incomplete, a hearing was scheduled for 27 January 2023.
- 4 On 5 January 2023 the Respondents sought an adjournment of the hearing because they stated that they would be unable to attend a face-to-face hearing and did not have the facilities for a video hearing; that the First Respondent had medical issues (both physical and psychological) that required long-term treatment through to October 2023; and that the Second Respondent lacked the knowledge and linguistic skills to deal with the case. The Tribunal proposed a paper determination but the Respondents rejected that proposal. The Respondents then proposed mediation. The Applicants indicated a willingness to mediate but pointed out that the Respondents had previously withdrawn from mediation arranged through the County Court. In any event, the proposal for mediation came to nothing.
- 5 On 27 January 2023 the scheduled hearing started but was adjourned, partly in the light of the Respondents' inability to participate and partly because the Applicants had failed to serve new documents on the Respondents.
- 6 On the same date the Tribunal issued further Directions – (i) strongly advising the Respondents without delay to instruct a legal representative to conduct the case on their behalf, (ii) requiring the Respondents to confirm that they had done so and providing to the Applicants and to the Tribunal the name and contact details of the representative and (iii) requesting the legal representative to contact the Tribunal office to confirm that he/she is representing the Respondents in this case.
- 7 The Respondents failed to comply with any part of those Directions.
- 8 On 13 June 2023 the Tribunal effectively reissued the Directions issued on 27 January 2023.
- 9 Again the Respondents failed to comply with those Directions or to make any contact with the Tribunal.
- 10 On 26 September 2023 the Tribunal issued Directions, indicating (i) that in the light of the Respondents' failure to comply with Directions issued on 13 June 2023 or otherwise to engage with the Tribunal, the Tribunal was minded to bar the Respondents from taking further part in the proceedings, pursuant to rule 9(3)(a) and (7)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ('the 2013 Rules'); and (ii) that, if the Respondents were barred from taking further part in the proceedings, pursuant to rule 9(8) of the 2013 Rules the Tribunal need not consider any

response or other submission made by the Respondents and may summarily determine any or all issues against them.

- 11 The parties were invited to make representations in relation to the proposed barring not later than 13 October 2023. No representations were received from the Respondents by that date.
- 12 However, on 16 October 2023 the Tribunal received a letter from the First Respondent, stating that the Respondents had instructed named solicitors.
- 13 Since no confirmation of the Respondents' instruction was received from the named solicitors, on 10 November 2023 the Tribunal emailed the solicitors to seek confirmation.
- 14 On 13 November 2023 the solicitors named by the Respondents emailed the Tribunal, stating that they had received no instructions from the Respondents.
- 15 The Respondents therefore not only failed to comply with Directions issued on 27 January 2023 and 13 June 2023 but also appear to have claimed falsely that they had instructed solicitors.
- 16 The Applicants (and the Tribunal) have shown very significant forbearance towards the Respondents. However, bearing in mind the overriding objective to deal with the case fairly and justly, in the view of the Tribunal the case must now proceed to a determination without further delay.

Order

- 17 In the circumstances the Tribunal orders that the Respondents are barred from taking further part in the proceedings, pursuant to rule 9(3)(a) and (7)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Decision

- 18 Pursuant to rule 9(8) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 the Tribunal summarily determines that the following sums claimed by the Applicants are payable by the Respondents –
 - (i) arrears of service charges in the sum of £4,986.95;
 - (ii) administration charges in the sum of £240.00.
- 19 The Respondents' application for an order under section 20C of the Landlord and Tenant Act 1985 is dismissed.
- 20 Enforcement of the Tribunal's Decision and the outstanding issues of interest and costs are transferred back to Romford County Court.

Appeal

- 21 If a party wishes to appeal this Decision, that appeal is to the Upper Tribunal (Lands Chamber). However, a party wishing to appeal must first make written application for permission to the First-tier Tribunal at the Regional office which has been dealing with the case.
- 22 The application for permission to appeal must be received by the Regional office within 28 days after the Tribunal sends written reasons for the Decision to the person making the application.

- 23 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(s) for not complying with the 28-day time limit. The Tribunal will then consider the reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- 24 The application for permission to appeal must state the grounds of appeal and state the result the party making the application is seeking.

23 November 2023

Professor Nigel P Gravells
Deputy Regional Judge