



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

Case reference : **LON/00AG/LSC/2023/0302**

Property : **75 and 76 Eton Hall, Eton College Road,
Nw3 2DH**

Applicant : **Shellpoint Trustees Ltd**

Representative : **Dale and Dale Solicitors**

Respondent : **Constatine John Zographos
Katherine Zographos**

Representative : **Dale & Dale Solicitors**

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 Niamh O'Brien
Tribunal Member Richard Waterhouse
FIRCS.**

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

**Date of decision
(costs)** : **22nd April 2024**

DECISION

Decisions of the Tribunal

- (1) The Tribunal dismisses the Second Respondent's applications for orders under s20C of the Landlord and Tenant Act 1985 and under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.

The application

1. The Applicant sought a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (LTA 1985) as to the amount of service charges payable by the Respondents in respect of the service charge years 2017 to 2023. The hearing took place on 19th February 2024.
2. The Applicant was represented at the hearing by Mr Comport of Dale and Dale Solicitors. The First Respondent was not present and was represented by his sister Miss V Zagrophos. The Second Respondent appeared in person. In the course of the hearing the parties agreed that the only service charges which the Tribunal was being asked to determine were the sums claimed as 'planned maintenance charge' for the years 2017 to 2023. In a written decision dated 21 March 2024 the tribunal determined that the sums for the relevant years were payable, reasonably incurred and reasonable in amount.
3. At the end of the hearing the Tribunal invited both parties to make written submissions in respect of the Respondent's applications for determinations under s20C of the LTA 1985 and Paragraph 5A of Schedule 11 to CLRA 2002 in respect of the costs of the proceedings following receipt of the decision. Both parties have made submissions. The second respondent has filed and served 2 separate application forms in respect of her applications under both s20C LTA 1885 and paragraph 5A of schedule 11 to CLRA 2002 On both applications she has indicated that she is content for the applications to be determined on the papers and the Tribunal has treated these applications as the second respondent's written costs submissions in Case ref LON/00AG/LGC/2023/0302.
4. The Second Respondent relies on the same points in respect of both applications. She argues that the applicant has failed to engage with the Respondents' queries regarding the pipework replacement fund over many years and did not engage with her offer of mediation made prior to the issue of the application. She refers the tribunal to the correspondence which is contained in the hearing bundle.
5. The Applicant in its response refers the tribunal to the relevant law. It submits that there were no relevant offers to settle this case, merely repeated repeated requests for clarification. It does not comment on the assertion that it failed to engage with the respondent's pre-action offer

of mediation but points out that it did engage in attempts to resolve matters without issuing an application, and points to a ‘without prejudice’ meeting between the Applicant’s managing agent and the Respondents which took place prior to the issue of proceedings but did not result in a resolution.

The Law

6. The discretion to make orders under s20C and/or paragraph 5A is wide but the tribunal must have regard to what is just and equitable in the circumstances. The tribunal should have regard to the outcome of the proceedings and the conduct of the parties and should have regard in particular to any relevant offers to settle or attempts to facilitate settlement. It should also consider the potential impact on other leaseholders if a s20C order is made (see *Conway v Jam Factory Freehold Ltd [2013] UKUT529 LC*).

Reasons for the Decision.

6. We note that after the issue of proceedings both parties agreed to take advantage of the mediation service offered by the tribunal. There was no successful mediation for reasons which are not clear. However, what is clear is the Applicant has not refused to mediate or engage in pre-issue discussions.
7. We also note that the Applicant has been entirely successful in relation to those matters which remained in dispute at the hearing. There is some dispute as to what payments were made by the Respondents and whether or not some payments were rejected by the Applicant but it is clear that the Respondents permitted a significant level of arrears to accrue in relation to their ongoing liability to pay service charges for the years 2020 to 2023. It appears that this occurred because the Respondents were not satisfied with the Applicant’s responses to queries they had raised regarding the pipework replacement fund and were unwilling to make payment in full toward their ongoing liabilities until they had received satisfactory answers to their queries. The Applicant was left with little choice other than to issue this application. In the circumstances there is no basis for the tribunal to make orders under either s20C LTA 1985 or Paragraph 5A of Schedule 11 to CLRA 2002.

Name: Judge O’Brien

Date: 22 April 2024

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).