



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

**Case reference** : **LON/00BK/LSC/2023/0311**

**Property** : **Ground Floor Flat, 4 Warrington  
Crescent, Maida Vale, London W9 1 EL**

**Applicant** : **4 Warrington Crescent Limited**

**Representative** : **Dale & Dale Solicitors (Mr Comport)**

**Respondent** : **Ms Elinor Wilson**

**Representative** : **In person**

**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 H Carr  
Mr S Wheeler MCIEH CEnvH**

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

**Date of decision** : **22<sup>nd</sup> May 2024**

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**DECISION**

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## **Decisions of the tribunal**

- (1) The tribunal determines that the sum of £ 19,058.25 is payable by the Respondent in respect of the service charges for the years ending 24<sup>th</sup> March 2022, 24<sup>th</sup> March 2023 and 24<sup>th</sup> March 2024.
- (2) The tribunal makes the determinations as set out under the various headings in this Decision.
- (3) At this stage the tribunal has not made an order under s.20C of the Landlord and Tenant Act 1985.

## **The application**

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) as to the amount of service charges payable by the Respondent in respect of the service charge years the years ending 24<sup>th</sup> March 2022, 24<sup>th</sup> March 2023 and 24<sup>th</sup> March 2024.
2. This matter was originally listed for hearing on 10<sup>th</sup> April 2024. The respondent did not attend on that occasion but made an application for an adjournment. The tribunal granted the application and issued further directions. The directions made clear to the Respondent that the matter would go ahead on 17<sup>th</sup> May 2024 and she was strongly advised to attend and/or instruct a representative. The directions also raised issues for the Applicant to address.

## **The hearing**

3. The Applicant was represented by Mr Comport of Dale & Dale at the hearing. He was accompanied by Samantha Leonard who is a Property Manager with Parkgate Aspen, the managing agents for the property. She was the property manager for the property for the period in dispute, although she is no longer the property manager.
4. The Respondent arrived a few minutes late for the hearing. The judge asked if she wished to make an application for an adjournment. She declined on the basis that it was better to resolve the dispute rather than wait. The tribunal granted a short adjournment for her to be provided with a paper copy of the statement she had previously provided and a further copy of the directions the tribunal had issued on 10<sup>th</sup> April 2024. The tribunal indicated to Ms Wilson that her statement and the issues raised by the tribunal would provide the structure for the hearing.

## **The background**

5. The property which is the subject of this application is a 2 bedroom flat in a converted house comprising six flats. The respondent is the only owner-occupier in the house.
6. 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.
7. The Respondent holds a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The Respondent raised no issues of payability under the lease.
8. The Applicant is a leaseholder owned freehold company. All the leaseholders of the building are shareholders in the company including the Respondent.

## **The issues**

9. The relevant issues for determination as follows:

The payability and/or reasonableness of service charges for service charges ending 24<sup>th</sup> March 2022, 24<sup>th</sup> March 2023 and 24<sup>th</sup> March 2024 to the total value of £19,058.25.

10. Having heard evidence and submissions from the parties and considered all the documents provided, the tribunal has made determinations on the various issues as follows.

## **The reasonableness and payability of service charges amounting to £19,058,25**

11. The Applicant seeks a determination that the respondent is contractually bound to make payment of the service charges in accordance with the terms of the lease. The obligation is set out in clause 2.1 of the lease and the third schedule to the lease.
12. The Applicant has demanded service charges of £19,058.25 in accordance with the lease but the Respondent has failed to pay this money.
13. The Applicant provided a statement showing how the sums have been calculated.

14. The Applicant explained its process for collecting service charges. Interim service charges are demanded quarterly in advance and then then a balancing activity is carried out and where appropriate sums are credited to the leaseholders' accounts.
15. Legal fees and any other administrative charges are not included in this application.
16. The Respondent made the following allegations in relation to the service charge demands in an email sent to Mr Comport on 30<sup>th</sup> October 2023.
  - (i) She alleges that the managing agents Parkgate Aspen have given her more than 16 years of hell. She alleges that they have never provided evidence of any works having been done, no receipts for any work, no agreement by the leasehold owners for any work and no meetings or discussions taking place to her knowledge.
  - (ii) She alleges that a spend of £100,000 per annum on one house with six flats is simply outrageous including the vast cost of building insurance and Parkgate Aspen's management fees plus percentages on work carried out.
  - (iii) She says that she paid all the outgoings on the house for a period of five years prior to the appointment of managing agents and installed many of the vital things which still remain functioning today at a mere fraction of the price.
17. The Respondent says that she has been ill for a long time with Covid and other health issues. Following 19 months Covid bedridden she then fell fracturing her leg and both ankles, and then suffered another bout of Covid whilst in bed with fractures. She says that many years previously she was in and out of hospital due to sepsis including a period in St Mary's hospital in intensive care due to the floods and dampness from her flat.
18. She asked the Applicant to send all the receipts for work done over the last three years plus minutes of meetings with the owners who agreed to such works.
19. She says she is totally unconvinced by the accountant's record.

20. She says her solicitors paid £17,500 without her agreement or knowledge to the applicant. She says she may have been unfit to deal with the issue at that time.
21. She says that the house is in a poor state which is incredible considering the fees for service charges, insurance, and management fees.
22. She complains that
  - (i) the front door lighting has been messed about with removing the timer meaning that there is no front door light;
  - (ii) the door to the terrace has been changed from a 200 year old Regency door to a 1930s tiny door that one cannot even pass through without turning sideways;
  - (iii) the agents removed a barbeque, smashing up the table which held the barbeque and removing two empty gas bottles from the terrace without authorisation or a meeting;
  - (iv) the cleaning is pathetic, intermittent and infrequent;
  - (v) The electricity charge is approximately £500 per annum and never paid on time, gaining late fees regularly.
23. She complains about floods from the flats above, the first of which was totally devastating costing hundreds of thousands to repair. She says she has had further floods whilst she was in bed with Covid. She has an agreement from the building's insurers based on three sets of quotes but who offered only 55% of the cash which is insufficient to do the work.
24. Samantha Leonard for the Applicant provided two witness statements to the tribunal. In the first she explains that she sent copies of all the relevant accounts and budget to the Respondent prior to the application. Furthermore she says that Dale and Dale in turn sent these to the respondent by email and post in accordance with the original directions.
25. Prior to issuing the application the Applicant instructed Dale & Dale to send a letter to the Respondent asking for payment of the arrears as well as any details of dispute she had regarding the service charges. Dale & Dale sent their letter on 26<sup>th</sup> April 2023. The respondent emailed Dale & Dale in reply on 27<sup>th</sup> April 2023 asking for copy invoices for the past year. Ms Leonard sent these to Dale and Dale on 24<sup>th</sup> March 2022 to Dale & Dale and they in turn sent them to the Respondent.

26. Neither Dale & Dale nor Ms Leonard heard anything further from the Respondent.
27. The Applicant makes the following responses to the relevant allegations made by the Respondent in emails to Dale & Dale
- (i) No communication – Ms Leonard says she sent everything to the Respondent by post and email. The Respondent must have received Dale & Dale’s letter before claim as she responded to it. No-one else has complained about having problems with their post.
  - (ii) Receipts – Ms Leonard sent the respondent all the receipts for 2022. The application covers actual charges for 2022 and 2023 and the estimated charges for 2024. Dale & Dale have been asked to send the receipts for 2023 at the time of the witness statement.
  - (iii) Accountants visit – no request has been made in respect of the current arrears.
  - (iv) Payment of £17,500 – this was paid by the Respondent’s solicitors following a consent order. The point is not relevant to the matter in hand.
  - (v) Parkgate Aspen fees – these are agreed with the directors of the company.
  - (vi) Approval of owners – the managing agents take instructions from the directors of the applicant especially in relation to major works.
  - (vii) Removal of front door lighting – this did not happen during the period of Ms Leonard’s property management.
  - (viii) New doors on hall cupboard with lock – this was done following a health and safety review.
  - (ix) Regency Door replacement – this has not happened during Ms Leonard’s period of property management or subsequently.
  - (x) BBQ and empty gas bottles – these were removed on health and safety grounds.

- (xi) Cleaning – this matter was raised in the previous application by the applicant. The tribunal found that the sums were reasonable and payable. No-one else has complained about the cleaning.
- (xii) Electricity – Ms Leonard is not aware of any late payment charges. Bills are paid on time.
- (xiii) Floods – this was raised and dealt with at the time of the previous application. There have been no recent insurance claims regarding any water leaks into the respondent’s flat. The details of the insurance are available to any lessee

28. In its directions of 10th April 2024 and in part in response to communication received from the Respondent the tribunal raised the following points

- (i) Information is required about reasonableness of managing agent charges and the accountancy charges.
- (ii) Whether the service charge demands are compliant with s.47 of the Landlord and Tenant Act 1985.
- (iii) Membership of the freehold company.
- (iv) Late payment charges for electricity.

29. The Applicant provided an additional witness statement in response.

30. In response to the issue about the managing agents charges, Ms Leonard explained

- (i) The Applicant entered into a contract with Parkgate regarding the management of the Building.
- (ii) For the years which are the subject of the application the total charges for managing agents’ fees including VAT are
  - (a) 2022 - £4,431.00
  - (b) 2023 - £4,649.00
  - (c) 2024 - £5,272.00

The fees work out at £14.00 per week plus VAT for each flat.

- (iii) The Directors of the freehold company agree the fees.
  - (iv) The Respondent has agreed the service charges for previous years which includes the managing agents fees.
31. In response to the issue regarding ss 47 and 48 of the Landlord and Tenant Act 1985 Ms Leonard says
- (i) This issue has never been raised by the Respondent before.
  - (ii) However as a belt and braces approach she has sent revised demands to the Respondent making the address clear by including the words '4 Warrington Crescent Limited, 4 Warrington Crescent London W9 1EL.
32. In response to the issue of membership of the Freehold Company, the applicant says that every owner of a long lease of a flat in the Building is a shareholder in the freehold company. This includes the Respondent.
33. In response to the Late Payment Charges on Electricity Bills the Applicant explained
- (i) The Electricity to the Building and the common parts is provided by EDF. Their bills are sent rather erratically.
  - (ii) The Applicant did not appreciate that there were some late payment charges. It is difficult to tell what dates the late payment fees relate to.
  - (iii) The invoices are erratic and often include credit notes. It is almost impossible to understand. For this reason the agents use utility brokers to manage electricity supplies. The Applicant says she has emailed those brokers seeking credits for the late payment charges that have been made.
  - (iv) Ms Leonard says that at the time she made her initial statement she had not appreciated that there



were late payment charges because they use brokers. She is endeavouring to have credits issued.

### **The tribunal's decision**

34. The tribunal determines that the amount payable in respect of the service charges for the years in dispute is £19,058.25.

### **Reasons for the tribunal's decision**

35. The Applicant has demonstrated that the amounts demanded are payable under the lease and that the Respondent has received the necessary information about the service charges demanded.
36. Whilst the Respondent was adamant that she had seen no receipts, the tribunal accepts the explanation of the Applicant that the invoices provided were stamped paid and therefore were evidence of payment. Mr Comport said that if the Respondent had raised specific queries about specific items of expenditure, he would have provided further information.
37. The tribunal had some concerns about the levels of insurance, managing fees and the accountancy charges but it noted
- (i) The Respondent failed to provide any comparative evidence.
  - (ii) The amounts demanded have been agreed by the freeholder company which comprises leaseholders who are liable for the charges alongside the Respondent.
38. The tribunal also had concerns about the late charges for electricity. It accepts the Applicant's assurances that there were beyond its control and that they are looking for refunds of these from their brokers so that the leaseholders will be credited for all of those payments. As the current year is only estimated service charges the tribunal expects that the finalised accounts will reflect those credits.
39. The tribunal raised the issue of the correct address for the purposes of s.47 of the Landlord and Tenant Act 1987. The Applicant argued that the correct address had to be one connected with the landlord's property and could not be the agent's address. The tribunal has read the relevant Upper Tribunal decision, *Bettov Properties Limited and Elliston Bentley Martin* 2012 UKUT 133 LRX /59/2011 and notes that

at paragraph 11 of that decision the judge says that the address for the purpose of s.47(1) is the place where the landlord is to be found. Although it makes reference to the corporate landlord's registered address it does not appear that this is a statutory requirement. The tribunal is therefore inclined to accept Mr Comport's submission that any problems caused by the landlord using the address of the property as its address are problems that the landlord has to resolve. Therefore, the tribunal accepts that the demands have been properly served.

40. The tribunal also had concerns about what appeared to be high charges for routine checks for health and safety and for asbestos. However, the Respondent was only concerned about the lack of health and safety signage and equipment and insisted there was no asbestos in the property. In these circumstances the tribunal finds that the charges are reasonable and payable.
41. The Respondent did not focus on the details of the charges which were the subject of the application but made generic complaints about management, authoritarian regimes, and the history of flooding to her flat from higher levels in the block. This did not help her in challenging the service charges that are the subject of this application.
42. She also made assertions about the quality of services provided without providing evidence to back up these assertions. So for instance she claimed the cleaning was of poor quality but had no evidence to support this assertion. The tribunal accepts the Applicant's evidence that there have been no complaints from other lessees but also notes that they are not resident in the property.
43. For the reasons set out above the tribunal finds that the service charges demanded for the years in dispute are reasonable.

#### **Application under s.20C and refund of fees**

44. At the tribunal it was decided that the Respondent should be given an opportunity to make submissions about a s.20C application following receipt of the decision. If the Respondent wishes to apply for an order to prevent the landlord putting the costs of this application on to the service charge account, then she must write to the tribunal copied to the Applicant with reasons supporting that application. If the Respondent makes such an application the Applicant will have 14 days to respond and the tribunal will make a determination on the papers on the basis of the parties submissions.

**Name:** Judge H Carr

**Date:** 22nd May 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).