



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

Case reference : **LON/00AM/LSC/2023/0471**

Property : **115 Chardmore Road, London N16 6JB**

Applicant : **Ms Deniz Ucan**

Representative : **In person**

Respondent : **The Mayor and Burgesses of the London
Borough of Hackney**

Representative : **Home Ownership and Right to Buy
Services, London Borough of Hackney**

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
Ms A Flynn**

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

Date of hearing : **24th June 2024**

DECISION

Decisions of the tribunal

- (1) The tribunal determines that the following sums are payable by the Applicant –
 - a. For the service charge year 2022/23
 - i. Cleaning costs £60
 - ii. Management fees £60
 - b. For the estimated charges demanded for the year 2023/24
 - i. Cleaning costs £50
 - ii. Management fees £60
- (2) The tribunal makes the determinations as set out under the various headings in this Decision.
- (3) The tribunal makes 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.
- (4) The tribunal determines that the Respondent shall pay the Applicant £300 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicant.

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 Applicant in respect of the service charge years 2022- 23 and 2023 -24 .

The hearing

2. The Applicant and her husband Mr Ucan appeared in person at the hearing and gave evidence. The Respondent was represented by Mr John Wenham Litigation Lawyer with the LB of Hackney. Also attending on behalf of the Respondent was Mr Ian Davies, Income and Dispute Resolution Officer.

3. The Respondent repeated its application for an adjournment of the case which it had made previously to the tribunal. Mr Wenham said that more time was needed to obtain evidence from the cleaning company.
4. Without that evidence he said there was no substance to the case. He said that the legal department were only informed of the matter in April, that the cleaning company did not have a Hackney email and it was very difficult to contact them. He suggested that with the evidence the application may fall away as it may demonstrate that the applicants were correct. Alternatively it would demonstrate that the charges demanded were reasonable and payable.
5. The Applicant objected to the application for an adjournment.. She considered that the Respondent had had sufficient time to prepare its case. It is very difficult for her to arrange time off from her job with Transport for London.

The decision of the tribunal

6. The tribunal determined to refuse the application for an adjournment.

The reasons for the decision of the tribunal.

7. The Respondents have had adequate time to prepare the case. The application was made in November 2023 and directions were issued in January 2024. Even if the legal department were only aware of the case in April 2024, as Mr Wenham indicated, the tribunal considers that it had sufficient time to prepare the case and obtain the necessary evidence.
8. It is in the interests of justice that the case go ahead as the Applicant has been waiting for this matter to be resolved since November 2023. It is also consistent with the overriding objective that matters should be resolved with minimum delay.

The background

9. The property which is the subject of this application is a two bedroom maisonette on the third and fourth floor of a purpose built block of 4 storeys comprising 10 units.
10. 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.
11. The Applicant 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 specific provisions of the lease and will be referred to below, where appropriate.

The issues

12. 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 2022/23 relating to block cleaning and management charges
 - (ii) The payability and/or reasonableness of estimated service charges for 2023/24 relating to block cleaning and management charges
13. Having heard evidence and submissions from the parties and considered all of the documents provided, the tribunal has made determinations on the various issues as follows.

Block cleaning charges

14. The Applicant is challenging the charge of £387.43 demanded for block cleaning in the year 2022 -23 and the estimated charge of £393.93 for the year 2023- 24.
15. The Applicant says that the quality and frequency of the cleaning services provided by the freeholder are grossly inadequate and do not meet the agreed standards.
16. She says that previously the block was cleaned once a week, which included hosing down the block and clearing all debris. This ensured a satisfactory level of cleanliness and maintenance.
17. This frequency ceased sometime before March 2022. The current provision is that the bottom ground floor receives cleaning attention only once every few months whilst the top floor is addressed once every three to six months. The significant reduction in frequency has led to a noticeable decline in the cleanliness and hygiene standards with the block.
18. The Applicant had a conversation with a cleaner responsible for the cleaning of the block who told him that they used to deep clean every month but have not been told to come for a good few months. This conversation was in 2023. She was unable to recall the exact date.

19. The Applicant says that the cleaning services provided are minimal consisting only of mopping the floors with cold water. This insufficient effort fails to address the accumulated dirt and grime, posing potential health hazards to residents. Consequently, the Applicant and her neighbours have taken it upon themselves to clean and sweep inside the block to maintain a habitable environment.
20. The Applicant provided a witness statement from the resident at 113 Chardmore Road. She also provided photographs of the standard of cleaning in the block and the accumulation of rubbish left unattended.
21. The Applicant says that the disparity between the service charges paid and the quality of services provided is unacceptable.
22. The Applicant says that the amount she would pay for the services provided is £60 for the year 2022/2023 as during that time there was only cleaning 2 to 3 times maximum and up to 6 times where only the ground floor was mopped.
23. The Applicant is prepared only to pay £50 for the year 2023-24 as the cleaning level has decreased. The whole block was cleaned on a maximum of two occasions during the year, and up to 6 times where only the ground floor was cleaned.
24. She says that she has complained several times by phone to Hackney Services. She was told to make a dispute for service charges via email so that they can look into the dispute. On 20th Augst 2023 she emailed the service charges team and also copying in the neighbourhood team about her service charge dispute. She has had no response nor any acknowledgement. She emailed again on 5th September 2023 but again got no response or acknowledgement.
25. The Respondent says that the Applicant has failed to provide sufficient evidence that the cleaning has not taken place.
26. Mr Ian Davies Income and Dispute Resolution Officer in the Leasehold and Right to Buy Services employed by Hackney disputes the photographic evidence provided by the Applicant.
27. He says the first set of photographs which are said to be from 30 October 2022 – 22nd December 2022 appear to show a communal hallway and the front door of 115. There is one mark or spillage on the floor that may not be removed even after being cleaned.
28. The final set of photographs are a collection of tissues said to have been taken between 20th March 2024 – 29th March 2024. This start as a group of 3 tissues on 20th March and appear to increase on some days

by 1 or so tissues per day until 29th March when 7 can be seen and a single crisp packet.

29. The Respondent says that the Applicant should be ordered to pay the full amount owing under the Lease for the block cleaning and management fee as from the little evidence provided it cannot be reasonably argued that they should not pay what is owed under the terms of the lease.
30. It also argues that the photographs do not demonstrate that there has been a lack of provision over the two years of the charges.

The tribunal's decision

31. The tribunal determines that the amount payable in respect of the block cleaning costs for 2022/3 is £60 and for the estimated costs for 2023/4 is £50.

Reasons for the tribunal's decision

32. The Tribunal determines that the Applicant has made a prima facie case that the charges for the year 2022/3 and estimated charges for 2023/4 were not reasonable. Her statement of evidence was credible and the Respondent did not argue that it was not.
33. The Respondent argues that the Applicant's photographs are insufficient evidence of the inadequacy of the cleaning. However in the view of the Tribunal they are sufficient to demonstrate that there was a problem with the standard of the service which required a response from the Respondent.
34. The Tribunal notes that the Applicant made a formal complaint about the standard of cleaning which was not responded to.
35. The Respondent was not able to demonstrate that the charges were reasonable as it was not able to provide a cleaning schedule, a contract for the cleaning or any evidence to demonstrate that the cleaning had taken place, or had taken place more frequently and with more rigour than the Applicant's evidence suggest.
36. The Respondent suggested that if it was given more time it would have been able to produce the necessary evidence. However as the Tribunal stated in its refusal of the application for an adjournment the Tribunal considers that the Respondent has had more than sufficient time to obtain this evidence.

37. In the absence of any evidence from the Respondent that the charges for cleaning are reasonable the Tribunal determines that the Applicant's offer of what it considers to be a reasonable amount for the years in dispute is the amount that is payable.
38. The Tribunal notes that the Applicant produced evidence of comparable costs for cleaning the block. It understands that it was very difficult to persuade any company to quote for the service. The quote that it did provide of £2610 per annum for the block however was not taken into account in reaching this determination as the Applicant was not challenging the reasonableness of the total charges, but whether the charges were reasonable in the light of the Respondent failing to deliver to an appropriate standard.

The management fee

39. The Applicant says that despite paying a management fee, there is an alarming lack of visible management presence and effective oversight of the estate's affairs. There has been a deterioration of services within the last 2 years.
40. One of the most pressing issues is the accumulation of items left outside flat doors by residents. This not only creates an unsightly environment but also poses safety hazards and contributes to a decline in the overall cleanliness and upkeep of the estate.
41. The Applicant provided photographic evidence of items left outside flats.
42. The Applicant says that there have been disturbing reports of drug users frequenting the premises with sightings occurring even during the early hours of the morning. This poses significant safety concerns for all residents, particularly considering the potential risks association with drug-related activities. The Applicant provides photographic evidence.
43. The Applicant is concerned that a flat within the block was been taken over by drug users and despite action from the residents it took more than a year for the Respondent to deal with the situation. The Applicant says that this situation not only compromises the safety and security of the community but also reflects a complete failure on the part of the management to address and resolve such a critical issue in a timely manner.
44. The Applicant says that the residents rely on the management to ensure the well-being and security of the estate, but the current state of affairs is unacceptable.

45. The Respondent says that set of photographs which are said to be from 10th October 2023 – 22nd November 2023 show possessions left outside individual properties including a shoe rack and trainers. He says that the Respondent is not at liberty to remove residents' possessions.
46. He says that as the residents have caused the problem themselves it is not something that can be relied upon to reduce the amount of block cleaning or management charges.
47. The picture of an alleged drug user is also relied upon by the Applicant and said to be the most concern issue to the Applicant. The Respondent says that this is something that should be reported to the Police and/or the Anti-social behaviour team at the council. This is not something that would reduce the amount of block cleaning or management charges.
48. The Respondent also says that the photographs provided do not show poor management over the two years in dispute.

The tribunal's decision

49. The tribunal determines that the amount payable in respect of management charges for the year 2022/3 is £60 and for the estimated charges for the year 2023/4 is £60. .

Reasons for the tribunal's decision

50. The Tribunal considers that the evidence provided by the Applicant demonstrates very poor management of the block. Nothing provided by the Respondent suggests that the property was well managed.
51. The answer provided by the Respondent in connection with the items left outside of the property by other residents is very poor. The Applicant is right, hazardous conditions are created by items placed in the common parts and the Respondent has a management responsibility to deal with these items. Of course there must be a process; residents should not have property removed without warning, but the Tribunal considers failure to remove the items after due warning is a breach of the Respondent's obligations under the lease. The Tribunal notes that the witness for the Respondent had not read the lease.
52. In the same way the Respondent has a responsibility to manage the property to evict illegal occupiers and prevent illegal activities thus ensuring the safety and security of the residents. It is not good enough to say that the matters raised by the Applicant are matters for the police and/or the ASB team. Management, for which the

Applicant pays, also has responsibilities. The Respondent is referred again to its responsibilities under the 9th Schedule of the lease.

53. The Tribunal also observes that the poor response of the Respondent to this application demonstrates very limited management provision. The Respondent has taken a very defensive approach saying there is insufficient evidence rather than taking the complaints and concerns of the Applicant seriously. It is difficult for the Tribunal to know whether the Respondent does anything in response to complaints from leaseholders based on what the Tribunal has read and heard at the hearing. The Respondent seems to think that the Applicant should just pay the charges as demanded without it having any accountability or transparency about the services it provides. No-one from the Respondent has visited the block since the application was made or made an effort to talk to the Applicant about her concerns. No-one seems concerned for instance that the Applicant and neighbours have themselves been cleaning the common parts.

54. In the absence of any evidence from the Respondent that the management charges in these circumstances are reasonable, the Tribunal accepts the offer of £60 per annum for management costs in the years in dispute as a reasonable offer.

Documents received after the completion of the hearing

55. On 25th June the Tribunal received the following email plus attachments from the Respondent.

Dear Sir/Madam,

We write further to the Trial that took place on Monday 24 June 2024.

We ask that this letter and its attachments which will follow in two separate emails owing to its size be forwarded to **Dr H Carr and Mrs Flynn**.

The Respondent is now in receipt of the cleaning log sheets for 2022, 2023 and 2024 which shows clearly that cleaning was recorded as taking place at 115 Chardmore Road, London, N16 6JB and the daily work instruction and Management instructions for the cleaning.

These specify exactly who has carried out the cleaning, the frequency of the cleaning and on what date the cleaning was carried out.

We hope the tribunal will take out of this evidence when reaching their determination.

56. The email, which was copied to the Applicants, provoked a strong email response from the Applicants, sent on 26th June 2024. They sought to challenge the contents of the email and attachments. This email was then responded to by the Respondent.

57. The Applicants then sent in a number of photographs and statements from other residents in the block.
58. The tribunal considered whether the additional correspondence plus attached evidence should be taken into account when reaching its decision.
59. It determined not to take the late documents into account.
60. The reasons for this decision are
- (i) The tribunal had already refused an application for an adjournment.
 - (ii) The tribunal had already considered the evidence and reached a decision on the evidence presented to it on 24th June 2024.
 - (iii) The overriding objective requires that decisions are made with minimum delay.
 - (iv) The timetable for the production of evidence was generous and it is necessary for the proper functioning of the tribunal that deadlines are adhered to .
 - (v) The Respondent provided cleaning sheets but no witness statement, nor did it make an application as to how the evidence should be responded to.
 - (vi) If the tribunal were to consider this evidence it would require further directions to be issued, a new bundle to be produced and a further hearing as there would be a need for cross examination in connection with the evidence.
 - (vii) The tribunal considers this would be disproportionate. As the tribunal has already said the Respondent has had more than enough time to produce the necessary evidence of cleaning having taken place.
 - (viii) If other leaseholders in the block challenge the service charges then the Respondent will be able to produce that evidence and it will be tested by the tribunal.

Application under s.20C and refund of fees

61. The Tribunal orders that the application and hearing costs of £300 paid by the Applicant are reimbursed within 28 days of the date of this decision.
62. Although the landlord indicated that no costs would be passed through the service charge, for the avoidance of doubt, the tribunal nonetheless determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act, so that the Respondent may not pass any of its costs incurred in connection with the proceedings before the tribunal through the service charge.

Name: Judge H Carr

Date: 15th July 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).