



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

Case reference : **LON/00AB/LSC/2023/0326**

Property : **59 Webbscroft Road, Romford, RM107NL**

Applicant : **Khalid Hussain**

Respondents : **Salisbury Place (Dagenham) Management Company Limited**

Type of application : **Determination of payability and reasonableness of service charges pursuant to s27A LTA 1985**

Tribunal : **Judge Shepherd
John Naylor FRICS**

Date of Determination : **31st January 2024**

Date of review : **12th April 2024**

1. In this case the Applicant, Mr Khalid Hussain (“The Applicant”) is the leaseholder of 59 Webbscroft Road, Romford, RM107NL (“the Premises”). He has brought an application pursuant to section 27A of the Landlord and Tenant Act 1985. The Respondent to the application is Salisbury Place (Dagenham) Management Company Limited a leaseholder company.

2. The period of challenge is from 2020 to 2023 and the total value of the dispute is said to be £6314.09. The Applicant's challenges can be summarised as follows:
 - a) In 2020 -2021 he says that he was not sent a service charge demand letter including the tenant's rights and obligations summary. He also says that the Respondents and their managing agents failed to comply with the lease. He also said that no sums above £250 were payable (an argument rightly withdrawn at the hearing) alternatively he said that pursuant to section 20B of the Landlord and Tenant act 1985 the sums were time barred because he didn't receive the demands.
 - b) In relation to 2021-22 and 2022-23 the arguments are the same, based on his allegation that he did not receive the demands. He also challenges the recovery of a surcharge and an insurance increase.
3. The Applicant was a director of the Respondent company between May 1999 and November 2000 and from September 2021 to November 2022. In addition, in 2018 he was working at the managing agents, Price and Co, , but left there in December 2019. He says after he stopped working for the managing agents he raised concerns about financial management by the Respondents.
4. For their part the Respondents say that they have brought an action in the small claims court in relation to unpaid service charges. This application was stayed pending the decision of this Tribunal. They say that the Applicant worked in the office of Price and Co, the managing agents between the 11th of September 2017 and the 5th of December 2019. He was a contracts manager. They say he was sacked. Thereafter he stopped paying service charges from the 1st of January 2020. They say they were not aware of his conflict of interest and if they had been aware of it they would not have allowed him to continue in his role as a director of the Respondent company. They say that in his role as a director he was fully cognisant of increases in service charges including increases in the cost of insurance. They say that John Price was responsible for setting their budgets each year agreeing with the directors and then sending out the service charge demands to each leaseholder.
5. The Respondents say that the challenge brought by the Applicant has no basis because the service charges for the challenged years of 2020 and 2021 were the same as when he worked for John Price and Co. (£980). In 2022 there should have been an increase in service charges because of a large insurance claim which caused the premium to increase. The insurance claim related to a substantial flood relating to the drains. There followed a dispute with Thames

Water who have since admitted liability. The increase in service charge was not enacted due to the death of the managing agent John Price.

6. On 2nd February 2023 David Cohen, the account manager at John Price and Co was invited to offer assistance. The Respondents were facing a winding up petition partly because of unpaid service charges. It was decided that a “surcharge” should be recovered from lease holders of £1000. The winding up order was therefore avoided. The Applicant has failed to pay his service charge arrears. The Respondents say that he received all of the service charge demands sent to him. They do accept that he was due a repayment of overpaid sums of £335.70.
7. At the hearing the Applicant maintained that he had not received the demands. He said if he had received them he would have queried the expenditure. He maintained this position despite there being correspondence in the bundle showing demands for each of the years in question with his address on the demands. He did not allege fraudulent conduct but was unable to explain why he did not receive this correspondence.

Determination

The demands

8. On a balance of probabilities we decide that the service charge demands were received by the Applicant. The demands were sent to his address in a timely fashion and therefore they did not fall foul of the 18 - month rule under s.20B Landlord and Tenant Act 1985. The sums were accordingly due and payable.

The “surcharge”

9. The £1000 additional charge made at a time when the Respondents were facing the very real risk of being wound up was both reasonable and prudent. It was also permitted under the lease (see paragraph 10 of the third schedule).

The insurance issue

10. We are satisfied that the insurance premiums which increased as a result of the flood are reasonable and payable. The Applicant failed to offer any alternative quotes.

Failure to comply with the lease and failure to provide financial information

11. The Applicant failed to elucidate on this argument at the hearing. To all intents and purposes the documents suggest that the managing agents did comply with the lease as did the Respondents themselves. There were inherent delays when John Price died. These are entirely excusable. The alleged failure to provide information was not proven and would not in any event affect a decision under s.27A Landlord and Tenant Act 1985.

Summary

12. All of the sums claimed by the Respondents are due save for the overpaid sum of £335.70.
13. **Following correspondence from the Applicant I have reviewed the decision in order to consider his applications under s.20C Landlord and Tenant Act 1985 and s.5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002. Both applications are refused. The Application was substantially unsuccessful. The Applicant was out of time in seeking to appeal the original decision but my review means that he retains appeal rights with effect from 12th April 2024 (see further below).**

Judge Shepherd

31st January 2024

12th April 2024

ANNEX - RIGHTS OF APPEAL Appealing against the tribunal's decisions

1. A written application for permission must be made to the First-tier Tribunal at the Regional tribunal office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.
3. 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.
4. The application for permission to appeal must state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers
5. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.