



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

**Case reference** : **LON/00AP/LSC/2023/0426**

**Property** : **Flats A and B, 7 Ruskin Road, London  
N17 8ND**

**Applicants** : **Flat A: Karise Robinson  
Flat B: Syed Ali Jazayeri Dezfully**

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

**Respondent** : **Assethold Limited**

**Representative** : **Eagerstates Limited (Mr R Gurvits)**

**Type of application** : **For the determination of the liability to  
pay service charges under section 27A of  
the Landlord and Tenant Act 1985 and  
liability to pay an administration charge  
under Schedule 11 Commonhold and  
Leasehold Reform Act 2002**

**Tribunal members** : **Judge Pittaway  
Mrs S Redmond MRICS**

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

**Date of decision** : **31 July 2024**

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**DECISION**

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## **Decisions of the Tribunal**

- (1) The Tribunal determines that the Applicants are not liable to pay the Respondent service charge in the sum of £8,167.50 each for the service charge year March 2021 to March 2022.
- (2) The Tribunal determines that the Applicants are not liable to pay the Respondent any service charge for the service charge years April 2022 to March 2023 and April 2023 to March 2024.
- (3) The Tribunal makes an order extinguishing any liability on the applicants to pay an ‘administration charge in respect of litigation costs’.
- (4) 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.
- (5) The Tribunal determines that the Respondent shall pay the Applicant £100 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicants.

## **The application**

1. The Applicants seek a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (“**the 2002 Act**”) as to the amount of service charges and (where applicable) administration charges payable by the Applicants in respect of the service charge years.
2. An oral case management conference took place by video attended by both the Applicants. The Respondent did not attend and was not represented.
3. By Directions dated 9 April 2024 the Applicants were directed to provide the Respondent with a statement of case, with the Respondent providing a response by 14 May 2024. The Respondent provided no statement in response. The Directions warned the Respondent that failure to comply with the Directions might lead to it being barred from taking any further part in the proceedings, and that the Tribunal might determine all issues against it pursuant to rules 9(7) and (8) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the ‘**Rules**’)
4. On 15 May 2024 the Applicants applied to have the Respondent’s case ‘struck out’ for non-compliance with the Directions.

## **Form of determination**

5. The Directions of 9 April 2024 allocated the case to the paper track unless any party requested a hearing. No such request was made.
6. The Tribunal therefore determined the case on the basis of the written representations received from the Applicants. No representations were received from the Respondent.
7. The Tribunal had before it a bundle of 99 pages which included the Applicants Statement of Case and the previous Tribunal decision in respect of the Property (LON/00AP/LSC/2021/0234) (the ‘**previous decision**’) and the lease of Flat A.

### **The property**

8. The property which is the subject of this application is a property built around 1900 which has been converted into three residential flats. Flat A (ground floor) is a one-bedroom flat and Flat B (first floor) is a two-bedroom flat.
9. No 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.
10. The Applicants each holds a long lease of their respective flats which require 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.

### **Background**

11. The background information which appears below has been taken from the Applicants’ Statement of Case, which has not been contested by the Respondent.
12. The Respondent acquired the freehold of 7 Ruskin Road sometime in March 2021.
13. The tenants of 7 Ruskin Road acquired the right to manage 7 Ruskin Road on 29 March 2022.
14. On 4 April 2022 the Tribunal issued the previous decision which related to the estimated service charge demanded by the Respondent on account for the service charge year 2021 to 2022.
15. On 30 November 2022 Eagerstates Limited sent each of the Applicants a demand for £8,167.50, stated to be ‘*Amount outstanding from previous account*’.

16. The Applicants requested a detailed breakdown of the service charge costs for the service charge year March 2021 to 29 March 2022, the date they acquired the right to manage 7 Ruskin Road. No information was provided by the Respondent.
17. The Respondent has not made any service charge demand of the Applicants adjusted to have regard to the previous decision.
18. The Respondent has not made any service charge demand of the Applicants other than the demands of 30 November 2022 referred to above.

### **The issues**

19. The issues before the Tribunal to determine are as follows:
  - (i) The liability of the Applicants to pay the service charges demanded by the Respondent for the service charge years March 2021 to March 2022, April 2022 to March 2023 and April to March 2024. The total value in dispute is £16,335.
  - (ii) Whether the Tribunal should make an order under s20C of the 1985 Act so that costs incurred by the landlord in the proceedings before the Tribunal should not be included as part of the service charge.
  - (iii) Whether the Tribunal should make an order under paragraph 5A of Schedule 11 of the 2002 Act reducing or extinguishing the tenants' liability to pay an administration charge in respect of litigation costs.
20. Having considered all of the documents provided, the Tribunal has made determinations on the various issues as follows.
21. The determination does not refer to every matter raised by the Applicants, or every document the Tribunal reviewed or took into account in reaching its decision. However, this doesn't imply that any points raised or documents not specifically mentioned were disregarded. If a point or document was referred to in the evidence or submissions that was relevant to a specific issue, it was considered by the Tribunal.

### **Service charge year March 2021 to March 2022**

22. The Applicants submit that the sums demanded of them on 30 November 2022 are not payable as they include alleged arrears, service

charges and administrative charges which the Tribunal had determined in the previous decision were not payable.

23. The applicants gave evidence that the demand did not identify the sum owed as 'service charge costs' and that the respondent had not issued any valid service charge notices or demands within 18 months of the Previous Decision. This was not contested by the respondent.
24. To the extent that the sums demanded might relate to administration costs relating to late payment/ debt collection the Applicants submit that these are not payable as they were charged on sums that were not owed.
25. To the extent the charges might relate to services carried out by the Respondent the Applicants submit that between March 2021 and March 2022 the Respondent carried out no services in relation to 7 Ruskin Road. All repair and maintenance was undertaken by the tenants.
26. The Respondent has failed to comply with the requirement in the leases, in clause 4.2.8 to issue a service charge certificate for the accounting year 2021/22.

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

27. The tribunal determines that neither applicant is liable to pay the respondent the sum of £8,167.50 by way of service charge for the year March 2021 to March 2022.

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

28. The previous decision (which relates primarily to the estimated service charges for the year 2021/22) dealt with the question of arrears up to that year. Accordingly the only arrears that can be considered by the Tribunal are any that arose during the service charge year 2021/2022.
29. The applicants gave evidence that they had not received any formal demand in respect of the arrears claimed, which evidence was not challenged by the respondent.
30. The respondent has provided no explanation of the demand for £8,167.50, stated to be '*Amount outstanding from previous account*'. The respondent has not provided any evidence as to how the sums are calculated, when they accrued and when they were formally demanded, if they were in fact so demanded.

### **Service charge years April 2022 to March 2023, and April 2023 to March 2024**

31. The applicants stated that 7 Ruskin RTM Company had acquired the right to manage the property on 29 March 2022. They also stated that from March 2021 to March 2022 the respondent had carried out no services at the property. The applicants submitted that by s98 of the 2002 Act no costs were payable to the respondent by way of service charge after 29 March 2022 without their prior consent to the costs being incurred.

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

32. The tribunal determines that the applicants are not liable to pay any service charge to the respondent in respect of the service charge years April 2022 to March 2023 and April 2023 to March 2024.

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

33. By s96 of the 2002 Act, copied in the Appendix to this decision, the management functions of the landlord passed to the RTM company on 29 March 2022.

### **Application under paragraph 5A of Schedule 11 of the 2002 Act**

34. The applicants submitted that, as determined in the Previous Decision, to the extent that any part of the sums demanded in the year March 2021 to March 2022 might relate to administration costs relating to late payment/ debt collection these are not payable as they are charged on sums that were not owed.

#### **The Tribunal's Decision**

35. The Tribunal makes an order extinguishing any liability on the applicants to pay an 'administration charge in respect of litigation costs'.

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

36. As the applicants owe nothing to the respondent no administration charges arise.

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

37. In the application form the Applicants applied for an order under section 20C of the 1985 Act. The Tribunal finds on the evidence before that the respondent has incurred no costs in connection with the tribunal proceedings but for the avoidance of doubt orders that the respondent

may not pass any costs it may have incurred in connection with the proceedings before the tribunal through the service charge.

38. The applicants did not apply for the refund of the fee paid to the Tribunal, but given the complete failure of the respondent to engage in the proceedings the Tribunal, the Tribunal orders that the respondent shall pay the Applicant £100 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the applicants. This order is made under the power given to the Tribunal under rule 13(2) of The Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013.

**Name:** Judge Pittaway

**Date:** 31 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).

## The Appendix

### **Commonhold and Leasehold Reform Act 2002**

#### **s 96 Management functions under leases**

(1) This section and section 97 apply in relation to management functions relating to the whole or any part of the premises.

(2) Management functions which a person who is landlord under a lease of the whole or any part of the premises has under the lease are instead functions of the RTM company.

(3) And where a person is party to a lease of the whole or any part of the premises otherwise than as landlord or tenant, management functions of his under the lease are also instead functions of the RTM company.

(4) Accordingly, any provisions of the lease making provision about the relationship of—

(a) a person who is landlord under the lease, and

(b) a person who is party to the lease otherwise than as landlord or tenant, in relation to such functions do not have effect.

(5) “Management functions” are functions with respect to services, repairs, maintenance, improvements, insurance and management.

(6) But this section does not apply in relation to—

(a) functions with respect to a matter concerning only a part of the premises consisting of a flat or other unit not held under a lease by a qualifying tenant, or

(b) functions relating to re-entry or forfeiture.

(7) An order amending subsection (5) or (6) may be made by the appropriate national authority.