



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

Case reference : **LON/00AP/LSC/2023/0445**

Property : **Flat 1, 635 Green Lanes. London**

Applicant : **Olivegrove Investments Limited**

Representative : **Mr Constatine Capsalis**

Respondent : **London Borough Haringey**

Representative : **Mr Grant, counsel**

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 Tagliavini**
Mrs Alison Flynn MRICS

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

Date of hearing : **26 July 2024**
Date of decision : **30 July 2024**

DECISION

Decisions of the tribunal

- (1) The tribunal determines the sum of £187.50 only should be credited to the applicant's service charge account.
- (2) The tribunal finds the cost of the scaffolding to be unreasonable, as on the balance of probabilities it exceeded in scope what was reasonably required for the replacement of windows, due to the roof works not being proceeded with by the applicant.
- (3) Therefore, the tribunal reduces the costs of the scaffolding by £1,500 of which the applicant's 1/8 share is £187.50.
- (4) This matter is now remitted to the county court for any further orders and determinations on costs and interest that may be required

The application

1. Following a transfer from the county court sitting at Edmonton and order of Judge Cohen dated 13 November 2023, the tribunal is required to make a determination in respect of the payability and the reasonableness of service charges paid by the applicant in the sum of £6,642.39 for replacement of windows, scaffolding together with a few sundry items and professional fees, neither of which were disputed.
2. The tribunal is not required to determine matters of costs and interest and the application will be remitted to the county court in respect of these on publication of the tribunal's decision.

The background

3. The disputed sum of £6,642.39 concerns the 1/8 contribution to major works that were carried out as part of the respondent's ST8B External South Tottenham (Phase 8) 2015/16 which included 445 other properties. The project started on site on 25/07/2016 and completed on 26/05/2017.
4. The property at 635 Green Lanes is a building comprising 8 flats on the first and second floors over commercial premises, of which 7 are leasehold dwellings. The respondent is the head lessee of the building pursuant to a lease dated 6 January 1978 made between Pilgrim Long & Sons Limited and The Mayor Alderman and Burgesses of the London Borough of Haringey for a term of ninety nine years from 25 December 1977.

5. The applicant is the long lessee of pursuant to an underlease dated 20 December 1999 made between the Mayor and Burgesses of the London Borough of Haringey and Maxine Hemmings for a term of 77 years (now extended) as well as having a share of the freehold.
6. The original scope of the major works were intended to include works to the roofing, rainwater good and fascia as well as window replacement. The roof works were not carried out as the respondent accepted its demise did not include the roof of the building.
7. Window replacement was carried out to Flats 3, 4, 7 and 8 only, as the remaining lessees had previously replaced their own windows (although the lease of Flat 1 did not demise the windows to the applicant). The work were started on 18/09/2017 and completed on 26/09/2017 and a demand for the payment of £6,642.38 was sent to the applicant on 21 January 2022. Subsequently, total credits of £3,590.37 were made to the applicant's service charge account for works not carried out.
8. However, the applicant still maintains he is due a refund of £6,642.38. The applicant asserted that the cost of the scaffolding at £11,875.79 is excessive and was not, in any event required. Further, long leaseholders who had previously replaced their own windows at their own cost at various times.

The hearing

9. At the hearing, the applicant was represented by Mr Constatine Capsalis and the respondent by Mr Grant of counsel. The parties relied upon a digital bundle of 156 pages.
10. During the course of the hearing, the applicant accepted that windows had been replaced in four of the flats (not 3 as he had alleged); the applicant had an obligation to pay for the cost of the works; the cost of the window works was reasonable and scaffolding was reasonably required and was used in these major works. Consequently, the only issue that remained for the tribunal to determine, was whether the cost of the scaffolding was reasonable.
11. During the hearing, Mr Grant demonstrated the service charge accounts showed a credit of £3,590.37 was made to the applicant's service charge account on 21 August 2022 and on 26 September 2023 a BACS payment of £2,220.97 was made to and received by the applicant to reflect the balance on the service charge account less the outstanding estimated service charge due of £1,414.32 thereby leaving a balance of zero.
12. The applicant asserted the cost of the scaffolding should be in the region of £2,000 but provided no alternative quote to support this assertion. The respondent accepted the scaffolding had been in place for the period

12/9/17 to 12/10/17 and the window works carried out and completed in the period 18/9/17 to 26/9/17. Mr Grant submitted that the erection and dismantling of scaffolding would have had to be scheduled by the contract, thereby necessitating it to be in situ for a longer period than just the period of the works themselves and further complicated by the fact the respondent withdrew its intention to carry out roof works after a challenge by the freeholder.

The tribunal's decisions and reasons

13. The tribunal determines the cost of the scaffolding should be reduced by £1,500. The tribunal finds extra costs would have been incurred by reason of the scaffolding being erected for the carrying out of roof works which were not proceeded with by the respondent due to the roof not being within its demise.
14. The tribunal finds the windows of Flat 1 were not demised to the applicant in the underlease (*clause 1(e)*) and that the respondent had an obligation in the head lease *'To keep the demised premises in good and tenantable repair and condition and the interior and exterior properly decorated (clause 5(4)(b))*.
15. The applicant accepted he had an obligation to contribute towards *'The expenses of improving maintain repairing redecorating and renewing amending cleaning repointing painting graining varnishing whitening or colouring the Building... (para 1 of the Third Schedule of the underlease)*.
16. The tribunal finds the respondent replaced the windows of Flats 3,4,7 and 8. The tribunal finds the contractors reasonably required scaffolding to carry out these works on the first and second (top) floors of the building and in accordance with the Construction Design and Management Regulations.
17. The tribunal would have been assisted had the applicant produced an alternative quote for the scaffolding required to replace the windows at the building, or the cost of scaffolding to carry out roof works in addition albeit they would have had to be adjusted for time. However, the applicant relied only on his own experience of the cost of scaffolding at another of his properties which did very little to assist the tribunal.
18. The tribunal finds some, albeit modest adjustment to the cost of the scaffolding should be made and therefore reduces it by £1,500 of which the applicant's share is £185.70.
19. The tribunal finds no other sums are due to the applicant and remits the matter to the county court for any further orders or determinations on cost and interest.

Name: Judge Tagliavini

Date: 30 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).