



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

Case reference : **LON/00AW/LSC/2024/0058**

Property : **45B Philbeach Gardens, London SW5
9EB**

Applicant : **Adriana Schwab**

Representative : **n/a**

Respondent : **Housing For Women**

Representative : **n/a**

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 N O'Brien, Mrs Louise Crane
MCIEH**

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

Date of decision : **22 October 2024**

DECISION

Decisions of the tribunal

- (1) The Tribunal determines that the following sums are payable by the Applicant in respect of the service charges for the year 2023- 2024
 - (i) Cleaning £32.04
 - (ii) Gardening – Nil
 - (iii) Fire Equipment £15.34
 - (iv) Security/Entryphone £10.56
 - (v) Pest control - Nil

- (2) 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 she has paid.

The proceedings

1. The Applicant issued an application dated 8 February 2024 for 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 year 2023-2024.

2. The Tribunal gave directions at a case management hearing on 8 May 2024 listing this matter for a final hearing on 21 October 2024. The Applicant fully complied with the directions however the Respondent has played no active part in these proceedings. On 18th September 2024 the Respondent informed the Tribunal and the Applicant by email that it did not contest the application and did not intend to attend the hearing and would re-imburse the Applicant in full for the service charges she paid for the year in dispute. The Applicant by email indicated that she still wanted the hearing to proceed because she did not believe that the Respondent would honour the offer to reimburse her in full.

The hearing

3. The Applicant appeared in person at the hearing. The Respondent did not attend and was not represented.

The background

4. The property which is the subject of this application is a basement studio flat in a period building in Earls Court which has been converted into 9 flats. It has the benefit of a small communal back garden for the use of the nine flats in the building. The Applicant is the assignee of an assured tenancy agreement dated 21 October 2013. The tenancy agreement requires the tenant to pay both a monthly rent and a service charge. The amount of the service charge is fixed annually and by Clause 6 of the tenancy agreement is based on the actual or estimated costs to the landlord of providing certain services. Consequently the service charge is a variable service charge within the meaning of s.18 of the Landlord

and Tenant Act 1985 (LTA 1985) and may be the subject of a determination by the tribunal pursuant to s27A of the LTA 1985.

5. Neither party requested an inspection and the tribunal did not consider that one was necessary

The issues

6. In her statement of case at pages 13-19 of the bundle the Applicant raised a number of issues beyond the payability and reasonableness of the service charges sought by the Respondent in the year 2023-2024. The issues she raises relate to the conduct of the Respondent both in the context of these proceedings and generally in relation to the manner in which it calculates the service charges due and communicates with its tenants. She asserted that there had been a prolonged failure on the part of the Respondent to comply with its statutory duties to provide information in respect of the relevant costs and to provide disclosure of documents.
7. This is the second application which the Applicant has brought in this tribunal. In 2023 she successfully applied to this Tribunal (Case ref LON/00AW/LSC/2023/0029) for a determination in respect of her service charges for the year 2022-2023 which resulted in a significant reduction in her service charge liability for that year. The Respondent failed to credit her account in full until 1 May 2024.
8. At the start of the hearing the Tribunal identified that, of the matters raised by the Applicant in her application and statement of case, it had jurisdiction in respect of the following matters only;
 - (i) The payability of the service charges levied in respect of gardening; and
 - (ii) The reasonableness of the service charges levied in respect of pest control, cleaning, fire equipment and security equipment.
9. The Applicant filed and served a bundle of documents for use at the final hearing. A schedule of disputed service charges appears at page 51 of that bundle. The monthly service charge payable for the year 2023-2024 appears at page 53. A breakdown of the service charges demanded by the Respondent appears at page 61. A copy of the tenancy agreement appears at page 33. Clause 1(3) of that agreement contains a list of services which the landlord agreed to provide and for which the tenant would make payment in addition to the rent. The services listed are "Mobile caretaker, Communal lighting communal cleaning, fire equipment, pest control, TV aerial, entry phone, floor covering replacement in communal areas". Clause 1(6) of the agreement provides that the service charge is to be based on the actual or estimated cost of providing the services.

10. Having heard evidence and submissions from the Applicant and considered all of the documents provided, the Tribunal has made the following determinations in relation to the specific items challenged by the Applicant;

(i) Cleaning

The Applicant submits that the cleaning is done to a poor standard and that the cleaners appointed by the Respondent spend about 10 minutes cleaning on each visit. She noted that the cost of cleaning had increased from £45.24 per flat per year to £103 per flat per year. She submitted that £32.04 would be a reasonable charge for the actual service she receives and in the absence of any submissions by the Respondent we accept that.

(ii) Gardening

The Applicant was charged £114.84 for gardening services as part of her annual service charge for the year 2023-2024. There is no provision in her tenancy agreement permitting the Respondent to make an additional charge for gardening services and consequently this charge is not payable as a service charge.

(iii). Health and Safety / Fire Equipment

The Respondent sought to recover the sum of £33.42 per month for 'Compliance / health and safety' . The Applicant submits correctly that under the provisions of her lease she is only liable to pay a charge in respect of the cost of maintaining the fire equipment. She accepts that an annual charge of £15.35 would be reasonable for this and bases this on the charge levied in 2020/2021. In the absence of any submissions by the Respondent we accept this figure.

(iv). Security/Entry Phone

The Respondent sought the sum of £27.96 under this head. The Applicant asserts that the only such equipment in her building is an entry phone. She accepts that the sum of £10.56 being the sum she was charged in 2022-2023 would have been reasonable and we accept her submission.

(iii) Pest Control/Refuse Disposal

The applicant maintains she had not had the benefit of any pest control measures for 8 years. All refuse disposal services are provided by the local authority. Consequently she submits that the sum recoverable should be nil and we agree.

Application under s.20C and refund of fees

11. In her application form the Applicant sought a refund of the fees that she had paid in respect of the proceedings. Having heard the submissions and taking into account the determinations above, the tribunal orders the Respondent to refund the fees totalling £300 paid by the Applicant in relation to these proceedings within 28 days of the date of this decision.
12. In the application form, the Applicant applied for an order under section 20C of the 1985 Act and for an order under s5A of the 2002 Commonhold and Leasehold Reform Act. It is not clear that such charges would be recoverable under the terms of this tenancy agreement. Nevertheless on the assumption that they may be, and taking into account the determinations above, the tribunal determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act and paragraph 5A of the 2002 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 or as an administration charge.

Name: Judge O'Brien

Date: 22 October 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).