



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

**Case Reference** : **LON/00BK/LSC/2024/0205**

**Property** : **Flat 37 Langford Court, 22 Abbey Road,  
London NW8 9DN**

**Applicants** : **Langford Court RTM Company Limited**

**Respondents** : **Fida Bobby Ayyub Syed**

**Type of Application** : **Application for determination under s 27A  
LTA 1985**

**Tribunal Member** : **Judge Shepherd  
Louise Crane MCIEH**

**Date of decision** : **10th November 2024**

**DETERMINATION**

1. In this case the Applicant is seeking a determination as to the reasonableness and payability of service charges. The matter started life as a county court claim for £20894.62 in service charges. There was also a claim for interest and costs but we can't deal with them. The claim for service charges was transferred to the Tribunal for a determination on 5<sup>th</sup> April 2024. Directions were given on 24<sup>th</sup> May 2024 and amended twice thereafter. In Scott schedule that followed the Respondent appeared to argue that demands had not been sent. In a further witness statement he raised issues about the way in which the case had been

brought and alleged that the Applicant had failed to comply with the lease. In the event none of these arguments were pursued at the hearing.

2. The Applicant is a Right to Manage company that manages Langford Court. The Respondent is the leaseholder of Flat 37. There have been previous proceedings in which the Tribunal made determinations about service charges owed by the Respondent. At the hearing the Applicants were represented by Mr Comport of Dale and Dale Solicitors and the Respondent was represented by Martyn Berkin of Counsel. Immediately prior to the hearing he submitted a skeleton argument. In the skeleton argument he concentrated on an alleged failure by the Applicants to provide invoices. At the hearing he sought an adjournment on this basis. This was refused. It was clear that specific requests for documents had not been made despite a prompt being given in previous directions and it was disproportionate for the Applicant to provide all of the invoices for the relevant years which were 2019-2023 inclusive.
3. Leigh Westall gave evidence on behalf of the Applicant. Mr Berkin put to her that there was no provision for an interim reserve fund in the lease. Ms Westall said there was a provision for interim payments and part of them was used for the reserve fund. Ms Westall also said that the only income came from service charges as the RTM company was self - funding.
4. The Respondent gave evidence. He said he had worked in the media for some time. The work was lucrative on occasions. He had not paid the previous judgment made against him. He said he had not received demands for the current service charges. This was clearly incorrect as the Tribunal saw repeated demands for the service charges. He was taken to the demands and said he was not sure if he had received them.
5. Mr Berkin repeated his submission that all of the invoices should have been provided. He said that the Respondent had faced a brick wall in relation to his requests for information. Mr Comport said that Judge Vance in his directions had made it clear that the Respondent needed to specify which service charges were disputed and they would send the relevant invoices. There was a lack of clarity or substance to the Respondent's defence. He had not paid anything for 9 years.

## **The law**

6. The law applicable in the present case was limited. It was an assessment of the reasonableness and payability of the costs.
7. The Landlord and Tenant Act 1985,s.19 states the following:

### **19.— Limitation of service charges: reasonableness.**

*(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period—*

*(a) only to the extent that they are reasonably incurred, and*

*(b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard;*

*and the amount payable shall be limited accordingly.*

*(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.*

8. The Tribunal's jurisdiction to address the issues in s.19 is contained in s.27A Landlord and Tenant 1985 which states the following:

*27A Liability to pay service charges: jurisdiction*

*1. An application may be made to [the appropriate tribunal]<sup>2</sup> for a determination whether a service charge is payable and, if it is, as to—*

*a. the person by whom it is payable,*

*b. the person to whom it is payable,*

*c. the amount which is payable,*

*d. the date at or by which it is payable, and*

*e. the manner in which it is payable.*

*2. Subsection (1) applies whether or not any payment has been made.*

*3. An application may also be made to [the appropriate tribunal]<sup>2</sup> for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to—*

*a. the person by whom it would be payable,*

*b. the person to whom it would be payable,*

*c. the amount which would be payable,*

*d. the date at or by which it would be payable, and*

*e. the manner in which it would be payable.*

*4. No application under subsection (1) or (3) may be made in respect of a matter which—*

- a. *has been agreed or admitted by the tenant,*
  - b. *has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,*
  - c. *has been the subject of determination by a court, or*
  - d. *has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.*
5. *But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.*
9. In *Waalder v Hounslow* [2017] EWCA Civ 45 the Court of Appeal held the following:

*Whether costs were “reasonably incurred” within the meaning of section 19(1)(a) of the Landlord and Tenant Act 1985 , as inserted, was to be determined by reference to an objective standard of reasonableness, not by the lower standard of rationality, and the cost of the relevant works to be borne by the lessees was part of the context for deciding whether they had been so reasonably incurred; that the focus of the inquiry was not simply a question of the landlord's decision-making process but was also one of outcome; that, where a landlord had chosen a course of action which led to a reasonable outcome, the costs of pursuing that course of action would have been reasonably incurred even if there were a cheaper outcome which was also reasonable; that, further, before carrying out works of any size the landlord was obliged to comply with consultation requirements and, inter alia, conscientiously to consider the lessees' observations and to give them due weight, following which it was for the landlord to make the final decision; that the court, in deciding whether that final decision was reasonable, would accord a landlord a margin of appreciation; that, further, while the same legal test applied to all categories of work falling within the scope of the definition of “service charge” in section 18 of the 1985 Act, as inserted, there was a real difference between work which the landlord was obliged to carry out and work which was an optional improvement, and different considerations came into the assessment of reasonableness in different factual situations*

## **Determination**

10. Having considered all of the papers in this case including the repeated demands for payment it is crystal clear that the Respondent is a serial non payer of his service charge. There is no excuse for this. There have been previous proceedings in which he has failed to pay the judgments against him. This is

unforgiveable particularly in the context of a RTM company which is self funded. He is obliged to pay his service charge under the lease. He does not live in rent free accommodation. He needs to alter his behaviour quickly otherwise he will face the real risk of forfeiture and the loss of his home.

11. The Tribunal were unimpressed by both the Respondent and his counsel. The Respondent had raised a number of issues in his defence and witness statement none of which were made good at the hearing. His Counsel made vague submissions without any substance probably because he had no ammunition to rely on. The Respondent has been seeking to avoid his responsibilities for years and any arguments he raises are mere delaying tactics.
12. In summary the Respondent must pay the Applicants the sum of £20894.62. The interest and costs claim will need to be returned to the County Court for consideration.

Judge Shepherd

10<sup>th</sup> November 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.

