



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

Case Reference : CHI/00HG/LSC/2023/0071

Property : 64 Stoke Road, Plymouth, PL1 5SG

Applicant : Andrew Howie Bashforth

Representative : In person

Respondent : Plymouth Community Homes Limited

Representative : Mr Wesley Potterton, Counsel

Type of Application : Determination of payability and reasonableness of service charges under Section 27A Landlord and Tenant Act 1985; costs orders

Tribunal Members : Mr C Norman FRICS
Mr R Waterhouse FRICS
Ms T Wong

Date of Hearing : 7 August 2024

Date of Decision : 10 November 2024

**DECISION AND
CONSENT TO WITHDRAW PART OF CASE**

- (1) The Tribunal makes the determinations as set out under the various headings in this Decision.
- (2) The Tribunal gives its consent to the Applicant under rule 22¹ to withdraw that part of his case concerning major works at the property as set out in an application to withdraw dated 28 August 2024.
- (3) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 (“the 1985 Act”) so that the landlord’s costs of the Tribunal proceedings may not be passed to the lessee through any service charge.
- (4) The Tribunal further orders under Paragraph 5A of the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”) that the landlord’s litigation costs may not be recovered via an administration charge.

The Application

1. The applicant applied for determination as to the reasonableness and payability of service charges in respect of (i) major works and (ii) other services for the years 2023/4 and 2024/5. He also applied for orders under section 20C of the 1985 Act and Paragraph 5A Schedule 11 of the 2002 Act.

The Hearing

2. A hearing took place at the Havant Civil Justice Centre on 7 August 2024. The applicant appeared in person. The respondent was represented by Mr Potterton of counsel.

The Background

3. The subject property is a two-storey maisonette in a block of 27 units dating from the 1970’s. Photographs were included in the bundle. The respondent is a not-for-profit housing provider. All but three units are let direct to social tenants. Major works were completed in about November 2022. In respect of those, the applicant was invoiced for £38,3438.69 on 4 November 2022.
4. Following the hearing, the parties have agreed terms to settle this part of the case. By an application dated 28 August 2024 the applicant sought consent to withdraw. The Tribunal agrees that consent to withdraw should be given. Therefore no detailed consideration of the major works issue is required.
5. In addition, Mr Bashforth challenged other annual service charges for 2023/4 and 2024/5. During the lunch adjournment the parties, as

¹ The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

directed by the Tribunal, helpfully prepared a short Scott Schedule setting out their respective positions for the disputed years.

The lease

6. The property is held by a lease dated 18 May 2009 from the Council of the City of Plymouth for a term of 125 years from 4 September 1989. The terms of the lease are not in dispute and therefore the Tribunal can deal with the lease briefly. By clause 2, the lessee covenants to pay his contribution to service charges and insurance premiums by way of additional rent.
7. Under the Sixth Schedule the lessor covenants to insure and to keep the reserved property in good and tenable state of repair and decoration and condition. It must also keep the reserved property including the drives paths lawns open spaces halls stairs landings and passages clean and in good order and adequately lighted. It must repair the door entry telephone system and empty bulk refuse bins. The lessor is required to employ such servants agents and contractors as it considers necessary or desirable for the performance of its obligations.
8. The Lessor is required to keep proper accounts of all costs and expenses with an account to be taken on 31 March each year to be audited by its Head of Finance. Under the Fifth Schedule the lessee shall contribute and keep the lessor indemnified from and against 1/27th of all costs and expenses reasonably incurred by the lessor in carrying out its obligations.
9. By Paragraph 19(b) of the Fifth Schedule, payments on account may be demanded by the lessor. By paragraph 19(a) of the Fifth Schedule the lessor may serve notice on the lessee stating a proportionate amount due from the lessee for the accounting period to which the notice relates, being a balancing payment or credit in respect of the accounting year in question.

The Applicant's Case in Relation to Annual Service Charges

10. The Applicant's case was that for six or seven years, service charges had been constant. In 2021/2022 it was £460. By 2023/2024 the charges had increased to £927 and for 2024/20 to £1303. This level of increases could not be justified, and the Applicant's queries were not answered. During the hearing, the Applicant conceded many of the disputed items.

The Respondent's case in relation to annual service charges

11. The Respondent provided a detailed position statement [statement of case]. Furthermore, Mr Potterton called Ms Philippa McDonald who had provided a witness statement verified by a statement of truth. Ms McDonald exhibited a large volume of relevant documents to her witness statement. Ms McDonald is a Leasehold Officer employed by

the Respondent. Copies of the invoices for 2024/2025 and 2023/2024 were exhibited to Ms McDonald's witness statement.

Findings

12. The Tribunal found Ms McDonald to be a credible witness. The findings of the Tribunal in relation to the annual service charges are set out on the attached Scott schedule.

Orders under section 20C of the 1985 Act and paragraph 5A Schedule 11 of the 2002 Act

13. At the hearing the Respondent conceded these applications. Accordingly, the Tribunal orders that none of the Respondent's costs in the proceedings are to be regarded as relevant costs for the purpose of the service charge and that no such litigation costs may be recovered via an administration charge against the applicant.

Mr Charles Norman FRICS

10 November 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).