

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
SOUTHERN RENT ASSESSMENT PANEL, AND
LEASEHOLD VALUATION TRIBUNAL**

Case number: CHI/00HB/LSC/2010/0153

**RE: PREMISES 17 MANOR COURT
TRENDLEWOOD PARK
BRISTOL BS16 1SY**

Between

Sovereign Housing Association

Applicant (Freeholder)

And

Ms Louise Yard

Respondent (Leaseholder)

In the matter of an application under Section 27a of the Landlord and Tenant 1985 (as amended) liability to pay services charges.

Decision

Date of application: 23 September 2010

Date of directions: 06 October 2010

Date of inspection and hearing: 13 December 2010

Date of determination: 21 December 2010

Members of the LVT: Mr A D McC Gregg (Lawyer Chairman)

Mrs M Hodge BSc (Hons) MRICS (Valuer Member)

Other persons present at the hearing: Ms Linda Clark (leasehold services manager for the applicant)

MS Sarah Goessens (leasehold services officer for the applicant)

Preliminary matter

Prior to the commencement of the hearing it was necessary to paginate the Applicant's bundle of documents in order to make sense of the application and to comply with Direction 8 of the Directions that were given on 6 October 2010. References to page numbers in this decision are accordingly those that were allocated at the hearing.

1. The Issues

- 1.1 In this matter the Applicant asks the Tribunal to make decision regarding the service charges that are alleged to be payable by the Respondent for the years 2007/8 2008/9 2009/10 2010/11 (estimated).

- 1.2 The subject property, 17 Manor Court, Trendlewood Park, Stapleton, Bristol, BS16 1SY is one of a number of flats in a block of 48 flats built in the 1970s comprising a mixed tenure of general needs housing and leaseholders who have purchased the leaseholds of their flats under the Right to Buy Legislation.
- 1.3 The Respondent is such a leaseholder having purchased the leasehold on 24 October 2003.
- 1.4 The Applicant is the freehold owner of the property and has requested the Tribunal to determine the liability of the Respondent to pay the service charges for the years 2007/8 2008/9 2009/10 and 2010/11.
- 1.5 The liability to pay service charges is governed by the provisions of Section 27a of the Landlord and Tenant Act 1985 (as amended) and the terms of the lease.

2. Inspection of the Property

- 2.1 The Tribunal inspected the external areas of the property on the 13 December being unable to gain access to the premises themselves.
- 2.2 The inspection took place in the presence of the Applicant's representatives Ms Linda Clark and Ms Sarah Goessens.
- 2.3 Flat 17 is situated on the second floor (top) of the block of flats which were constructed in the 1970s.
- 2.4 The Tribunal was told that the accommodation comprises two bedrooms, one lounge, one kitchen, one bathroom and a balcony at the front. There is apparently a staircase but no lift. There are communal gardens at the front and rear of the premises (washing, drying area) together with a garage.
- 2.5 There was no response to the intercom buzzer hence the tribunal was unable to gain access to the internal parts of the premises but the Tribunal noted that a window at the front was open.
- 2.6 The tribunal was informed by Ms Goessens that the Respondent had contacted her by telephone on Friday 10 December and told Ms Goessens that she was incapacitated having had another heart attack. The Respondent had also claimed that she had no knowledge of the inspection and hearing that were due to take place but she had received the Applicants bundle of documents dated 2 December. The Tribunal was also made aware of the correspondence sent from the Tribunal office to the Respondent.

3. Relevant Liabilities under the Lease

- 3.1 The lease of the premises is dated 24 October 2003 and made between Orbit Housing Association (the Applicants predecessor in title) and the Respondent Louise Yard.

- 3.2 The demise period is 125 years from the 24 October 2003 and is the subject of an annual ground rent of £10.00.
- 3.3 Clause 4 of the lease contains the lessee's (Respondent's) covenants and specifically Clause 4b states "to pay on demand (i) The amounts specified in the first proviso to schedule A. (ii) A reasonable part of the costs incurred or to be incurred by the lessor in carrying out repairs to the property to the remainder of the building and the scheme within the repairing obligations of the lessor under clause 6 of this lease and (iii) A reasonable part of the costs of insuring against risk involving such repairs including the making good of structural defects (iv) A reasonable part of the cost of further insurances within the insuring obligations of the lessor under clause 6 of this lease and the lessee shall be entitled to inspect all policies in respect of which he is required to contribute hereunder during normal working hours once in every year upon giving prior written notice (v) the costs incurred by the lessor in improving the property or the fixtures and fittings therein subject to the provisions of Section 4 of the Housing and Planning Act 1986 (vi) such reserve sum as the lessor shall from time to time reasonably consider to be required so as to secure so far as practicable that from year to year there shall not be any excessive variation in the amount of the expenditure due only to the differences in the obligations of the lessor requiring to be preformed in any particular year.

4. The Law

- 4.1 Section 27a of the Landlord and Tenant Act 1985 ("the Act") states as follows:-

The Leasehold Valuation Tribunal may determine whether a service charge is payable and if it is, determine

- 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
- e) the manner in which is payable

- 4.2 For the purposes of the Act a service charge is determined in Section 18(1) as "an amount payable by a tenant of a dwelling as part of or in addition to the rent

- a) which is payable directly or indirectly for services, repairs, maintenance, improvement or insurance or the landlord's costs of management and
- b) the whole or part of which varies or may vary according to the relevant costs (including overheads).

- 4.3 "Relevant costs" are defined as costs or estimated costs incurred or to be incurred by or on behalf of a landlord or superior landlord in connection with the matters for which the service charge is payable.
- 4.4 Section 19(1) of The Act deals with the test of reasonableness and the only costs that shall be taken into account in determining the amount of the service charge are those that are
- a) reasonably incurred and
 - b) where they are incurred on the provision of services or carrying out of works if those services or works are of a reasonable standards.

5. The Applicant's Case

- 5.1 The Applicant's case is that for the years 2007 to date the Respondent is and has been in arrears with the payment of service charges.
- 5.2 These arrears are detailed in the rent account statement dated the 18 November 2010 (document number 21) accompanying the applicants case and the balance as at that date amounted to £1,515.95.
- 5.3
- i) More specifically the details of the annual service charges are set out in the annual service charge accounts namely for the year ending the 31 March 2008 (page 23) total for year £908.17.
 - ii) The Right to Buy Service Charge Budget dated 1 April 2008 (page 24) and the service charge account for the period from 1 March 2008 to 28 February 2009 (page 25) actual total for year £913.41.
 - iii) The estimated costs for the year 2009/10 (page 26) and the service charge account from 1 April 2009 to 31 March 2010 (page 27) actual total for year £797.35.
 - iv) Finally, the breakdown of the service charges (estimated for year commencing 1 April 2010 (page 28) £983.20.
- 5.4 Notwithstanding numerous requests for payment the Applicant stated that the Respondent has ignored those requests and that the arrears currently stand at £1,515.95 as set out in the rent account statement dated 10 November 2010 (pages 21 and 22).

6. The Respondent's Case

- 6.1 The Respondent was not present at the hearing on 13 December 2010 and has made no written submissions in response to the Applicant's Case.
- 6.2 Furthermore, the Respondent has not replied to correspondence from the Tribunal Office.

7. The Tribunal's Findings

- 7.1 In the absence of any representations, either oral or written from the Respondent the Tribunal concluded that the service charges claimed by the Applicant for the years 2007 to 2010 were reasonably incurred and were payable by the Respondent.

Dated 21 December 2010

Signed

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Andrew Gregg (Chairman)