



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

Case Reference : CHI/45UH/LSC/2014/0094

Property : 3 Windsor Court, Brighton Road
Worthing, West Sussex BN11 2EZ

Applicant : Windsor Court (Worthing) Ltd

Representative : Mr M Bowles, Classic Property
Management

Respondent : Mr B James

Representative :

Type of Application : s27A

Tribunal Members : Judge D Dovar
Mr Neil Maloney FRICS

**Date and venue of
Hearing** : Paper Determination

Date of Decision : 9th January 2015

DECISION

1. This is an application for a determination under s27A of the Landlord and Tenant Act 1985 as to whether the cost of proposed structural repairs to the ceiling of Flat 3 of the Property falls within the repairing obligations of the landlord and therefore whether it is recoverable through the service charge.
2. Directions were given on 17th September 2014, by which the parties were required to set out their cases and notice was given pursuant to Rule 31 of the Tribunal Procedure Rules 2013 that this matter would be dealt with by way of paper determination unless either party objected. Neither party has objected and so this determination has been made without a hearing.
3. The issue for determination relates to intended repairs to the ceiling of Flat 3. The internal parts of Flat 3 including the ceiling have deteriorated in whole or in part because of water ingress through the windows.
4. This matter turns on the construction of the lease and whether the repairing and maintenance obligation for the ceiling of the flat falls to the landlord or the tenant. If the latter, then it is not a service charge item.
5. The lease for the flat provides at clause 4 that

'(1) all outside walls of Windsor Court shall be treated as main walls and the structural repair thereof shall be landlords' responsibility.

(2) all walls dividing the flat from an adjoining flat shall be treated as party walls and structural repair thereof shall be the joint responsibility of the Tenant and the tenant of the adjoining flat. ...

(5) the structural repair of all windows and window frames belonging to the flat ... shall be the Tenant's responsibility ...'

(6) the maintenance of the floor and ceiling of the flat shall be the Tenant's responsibility but that of the beams or timbers under an over the same shall be the joint responsibility of the Tenant and the Tenant of the flat below or above (as the case may be)'

6. It is clear from this extract that the repairing obligation is that of the tenant and therefore the cost of repair or maintenance does not fall to the service charge. Further, not only is the condition of the ceiling the responsibility of the tenant, but the windows are as well.

A handwritten signature in black ink, appearing to read 'D. Dovar', with a long, sweeping horizontal flourish extending to the right.

Judge D Dovar

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.