



12027

**First-tier Tribunal  
Property Chamber  
(Residential Property)**

**Case Reference** : CAM/26UE/LSC/2017/0072

**Property** : Flat 11 Hartsbourne Park,  
178/180 High Road,  
Bushey Heath,  
Herts. WD23 1SD

**Applicants** : 1. Bushey Management Ltd.  
2. Hartsbourne Park Ltd.

**Represented by** Charles Sinclair of counsel (Brady Solicitors)

**Respondent** : June Singer  
**Represented by** Harry Singer

**Date of Referral by the county court sitting at Watford** : 21<sup>st</sup> June 2017

**Type of Referral** : to determine reasonableness and  
payability of service charges

**Tribunal** : Bruce Edgington (lawyer chair)  
David Brown FRICS  
Adarsh Kapur

**Date and Venue of Hearing** : 9<sup>th</sup> October 2017 at Watford Tribunal  
Hearing Centre, 51 Clarendon Road,  
Watford WD17 1HP

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**DECISION**

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1. It is the determination of the Tribunal, by consent, that the arrears of service charges were £662.04 when the proceedings were issued, assuming that they were payable.
2. As there is no challenge to the payability or reasonableness of those particular service charges, the Tribunal determines that service charges of £662.04 are reasonable and payable.
3. The claim is transferred back to the county court at Watford under claim number D17YJ586 for it to determine any administration charges, any defence of set off, any counterclaim, interest and costs.

**Reasons**

**Introduction**

4. It is very sad to note that this is yet another piece of litigation arising from the occupation of the leasehold property by the Respondent and Harry Singer. The history has been so bad that a civil restraint order has been made in the High Court preventing Mr. and Mrs. Singer from pursuing any further claims through the courts system without the permission of the High Court.
5. This claim has been brought against June Singer which means that no such permission was needed for the claim to be brought. The claim relates to service charges and administration charges. By order of District Judge Sethi dated 21<sup>st</sup> June 2017, *“the question of whether the service charges claimed by the Claimant are payable (to include the question of reasonableness) is referred to the First Tier Tribunal (Property Chamber) for determination”*.
6. The Tribunal was somewhat puzzled by the reference as the defence makes no attempt to suggest that the service charges claimed are unreasonable. It says that they are not payable because the demand for payment *“did not have the Service Charges (summary of Rights and Obligations.....Without these, the Demands are NOT lawful and the charges can be withheld”*.

### **The Lease**

7. The Tribunal did not have the benefit of seeing the lease as it was not in the bundle filed for the hearing. However, two members of the Tribunal have sat on cases before involving the same property and as far as they can recall, the lease is a fairly modern lease in standard terms which provide for the management company to repair and maintain the structure and the estate in which the property is situated and then recover a reasonable proportion of such charges from the leaseholder.

### **The Law**

8. Section 18 of the **Landlord and Tenant Act 1985** (“the 1985 Act”) defines service charges as being an amount payable by a tenant to a landlord as part of or in addition to rent for services, insurance or the landlord’s costs of management which varies ‘according to the relevant costs’.
9. Section 19 of the 1985 Act states that ‘relevant costs’, i.e. service charges, are payable ‘only to the extent that they are reasonably incurred’.
10. Section 21B of the 1985 Act requires service charge demands to be accompanied by a summary of the rights and obligations of tenants and a tenant may withhold payment if this provision is not complied with. However, this is an omission which can be rectified at a later date which will then make such service charges payable if they are reasonable.
11. There is a similar provision in section 47 of the **Landlord and Tenant Act 1987** which requires a landlord to include the name and address of the landlord in a service charge demand. **Tedla v Cameret Court Residents Association** [2015] UKUT 221 (LC) was a case where the name and address had not been on demands for some years past. The Upper Tribunal determined that providing the necessary information made all previous demands compliant without their having to be re-served. Indeed, it was suggested by the Upper Tribunal that even the appeal notice which did identify the name and address may be sufficient to validate the demands.
12. The purpose of mentioning this case is that the bundle provided for the Tribunal did contain a page with the statutory information and it is therefore considered that even if there had been a breach of section 21B of the 1985 Act, this has been

rectified. In fact Mr. Singer said at the hearing that this point was no longer being pursued.

### **The Inspection**

13. The members of the Tribunal noted from the documents in the bundle filed for the hearing that there was still no basic dispute as to the reasonableness of the service charges which were the subject of the county court claim. The usual pre-hearing inspection was therefore cancelled.

### **The Hearing**

14. The hearing was attended by Mr. Sinclair, counsel for the Applicants, the witness Mr. Mire and his assistant, Mr. Singer and some observers. The Applicants had agreed that Mr. Singer could represent his wife and the Tribunal agreed. The Tribunal chair asked Mr. Sinclair to look at the summary of monies owing on page 34 of the bundle wherein it appeared that the arithmetic was not correct and an incorrect date had been given for one of the payments. There was a brief adjournment.
15. When the hearing resumed, it was agreed that the correct position was:-

	£
Services charges claimed	1,851.04
Less paid on 12 <sup>th</sup> December 2016	<u>1,189.00</u>
Service charges being claimed	662.04

16. A further payment had been made by Mr. or Mrs. Singer or both on the 11<sup>th</sup> January 2017 in the sum of £977 but as this had been paid for the period 'January 2017', which had not been demanded, the Applicants had felt that these monies could not be taken off the claim.
17. It was made clear on behalf of the Applicants that the administration fee and claim for legal costs were not being abandoned but everyone was merely concentrating their minds on the amount which the court had asked the Tribunal to determine i.e. the service charges claimed only.
18. Mr. Singer was asked to state his wife's case. His submission was that the case was in two parts. Firstly, a previous Tribunal had decided that £10,000 worth of service charges collected were not payable and he wanted to know how and when this was to be credited to his wife. Bradys, solicitors, on behalf of the Applicants had said that a payment had been made in respect of this overpayment, which was wrong.
19. The second part of his case was that Bushey Management Ltd's directors had not been appointed properly, they had not had annual general meetings and their affairs were being run illegally. Mr. Singer made the point that he was putting forward these arguments because (a) the residents of Hartsbourne Park were elderly i.e. aged 101 and below and were simply not in a position to challenge either the management company or the managing agent and (b) he, Mr. Singer, was 80 and he just didn't have the time or energy to pursue matters through the police or other bodies.
20. He then went on to talk about specific complaints he had over excessive monies proposed for maintaining the 2 lifts and new signage on the landings of the building installed, at his request, following the Grenfell disaster. This, he said, had only partially been dealt with.

### **Conclusions**

21. The court has given the Tribunal a very specific job to do i.e. to say whether the service charges claimed are payable and reasonable. The 'defence' does not mention these service charges save to say that there was no notice with the demand setting out the statutory information. That defect has now been rectified.
22. It is trite law to say that Tribunals cannot go behind the court reference and start deciding things which it has not been asked to decide.
23. Thus, whatever Mr. Singer may or may not want the Tribunal to determine, it can only answer the question raised. As neither the Respondent nor Mr. Singer have suggested that the service charges demanded are not reasonable and as the only challenge to payability has been rectified, the answer to the question raised is that the service charges are payable and reasonable.
24. On the question as to whether the statutory information was given at the time the demands were raised, the Applicants' evidence from Mr. Mire is that the demands had the statutory information printed on their reverse. However, there is no copy of such a notice produced or in the bundle. It is also said that a letter from Bradys to the Respondent dated 8<sup>th</sup> November 2016 at page 51 onwards in the bundle attached a copy of the statutory information. However, although there is a copy in the bundle following the letter, the letter does not actually refer to that as an enclosure.
25. If one adds to that the fact that the 'tenant statement' at page 63 in the bundle had the incorrect amount owing. Further, a substantial payment had been made before the claim was issued. These factors added together, lead the Tribunal to the conclusion that as it was only on the day of this hearing that Mr. Singer became aware of the correct figure, the court may feel it would be wrong to allow interest to be claimed before 9<sup>th</sup> October 2017.

.....  
**Bruce Edgington**  
**Regional Judge**  
**10<sup>th</sup> October 2017**

#### **ANNEX - RIGHTS OF APPEAL**

- i. 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.
- ii. 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.
- iii. 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.

- iv. 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.