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

Case Reference : **LON/OOAL/LSC/2013/0513**

Property : **114, Barnfield Gardens London,
SE18 3QZ**

Applicants : **Mr R and Mrs O Izekor-Omoregie**

Representative : **In person**

Respondent : **Royal Borough of Greenwich**

Representative : **Home Ownership Services**

Type of Application : **For the determination of the
reasonableness of and the liability
to pay a service charge**

Tribunal Members : **Mr Andrew Dutton – Tribunal
Judge
Mr T N Johnson FRICS**

**Date and venue of
Determination** : **27th November 2103 at 10 Alfred
Place, London WC1E 7LR**

Date of Decision : **27th November 2013**

DECISION

Decisions of the tribunal

- (1) The Tribunal determines that the reduced sums claimed in respect of the block cleaning costs for the accounting years ending March 2013 of £119.02 and the estimated charge for the year ending March 2014 of £136.09 are reasonable and payable by the Applicants.
- (2) The Respondent at the directions hearing confirmed that there would be no claim for costs made in respect of these proceedings

The application

1. The Applicants seek a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") in respect of block charges for cleaning for the years ending March 2013 and 2014.
2. The relevant legal provisions are set out in the Appendix to this decision.

The determination

3. At the pre-trial review held on 10th September 2013 it was directed that the matter proceed by way of a paper determination. The matter came before us for that purpose on 27th November 2013.
4. In the bundle provided we had a copy of a letter from the Applicants, standing as the statement of case, dated 7th September 2013. The Respondent Council had provided a statement of case and witness statements from Steven Reed the service charge manager and Carey Gay the environmental manager for Cleansweep, the respondents cleaning department. In addition we had a copy of the lease for the flat owned by the Applicants, copies of the service charge accounts for the two years in dispute and associated papers intended to show the time spent by the Respondent Council in cleaning the block. Finally the Applicants had elicited letters of support from Gemma Ashley (flat 116) and Jade Horton (flat 115). All were studied by us in reaching our decision

The background

5. The property which is the subject of this application is a two bedroomed flat in a purpose built block comprising six flats.
6. Some photographs of the common parts of the building were provided in the bundle but they were poor quality photocopied black and white images which did not assist. Although the Applicants indicated that an

inspection might assist and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

7. The Applicants hold a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease and will be referred to below, where appropriate.

Service charge item & amount claimed

8. The two sums in dispute relate to the actual costs for block cleaning for the year ending March 2013 of £119.02 and the estimated charge for block cleaning for the following year of £627.00. However, before the matter came to us for consideration the Council had conceded that in the year ending March 2011 it had mistakenly over charged based on erroneous hours spent, said to be 9 hours 18 minutes, when in fact it should have been 2 hours 1 minute. Rebates had been given for that year and it seems that in the year ending March 2013 the correct charge was made based on just over two hours of cleaning per week.
9. For the estimated charges for the year ending March 2014 it appears that the respondent had based the charge on the erroneous costs for the year ending March 2012. By a letter dated 23rd August 2013 the Respondent Council wrote to the Applicants informing them of the error and confirming that the estimated charge for the year ending March 2014 for block cleaning should be reduced from £627.38 to £136.94.
10. Notwithstanding this admission, which was made after the application was made to the Tribunal, the Applicants sought to continue with the dispute on the grounds that the reduced time of 2 hours and 1 minute per week was excessive and not supported by their observations and those of the neighbours. In fact the letters from Gemma Ashley and Jade Horton speak of a reduction in cleaning over the last 4 – 5 months and prior to that it had been conducted on a weekly basis. The Respondent Council has provided documentation to show the time spent. The hourly rate claimed by the Council is not challenged by the Applicants.

The tribunal's decision

11. Having considered the Applicants letter and the statements of case and statements from individuals provided by the Respondent Council we find that the rates being claimed of £16.31 and £17.18 per hour are reasonable, given the work involved as set out at paragraphs 6 and 8 of Carey Gay's statement. It is also in line with the cleaning rates that come before us in other cases of this nature.

12. The time appears to be recorded and is difficult to dispute. It might be that the Council could put up a cleaning rota to be completed by the cleaning personnel so that the residents can see at a glance what the cleaning pattern may be. In any event we find that an annual cleaning cost of under £3 per week per flat is not unreasonable.
13. Accordingly we find that the block cleaning costs for the year ending March 2013 are £119.02 and that the estimated costs are £136.09 are reasonable, the latter being susceptible to challenge under section 27A of the Act when the actual costs are established if they depart from the estimated charge to any degree.
14. As a matter of comment only we noted that the estate cleaning charge for the year ending March 2014 was shown as £23,201 which seems very high when compared with the actual costs for the year before of £1,967.48. Although the application only challenges block costs it may be that the Respondent Council should review the estimated charges for the estate costs for caretaking to ensure that the problems which plagued the earlier year (March 2012) have been corrected in line with the corrected block costs.

Name: Andrew Dutton -
Tribunal Judge

Date: 27th November 2013

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 18

- (1) In the following provisions of this Act "service charge" means 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, improvements 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.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose -
 - (a) "costs" includes overheads, and
 - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

- (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 provisions 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.

Section 27A

- (1) An application may be made to the appropriate tribunal 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 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.