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

**Case reference** : **LON/00AN/LSC/2014/0394**

**Property** : **Flat 10 Albany Court, College Park,  
1 Trenmar Gardens, London NW10  
6BG**

**Applicant** : **Quadron Investments Limited**

**Representative** : **Aston Rose(West End) Limited**

**Respondent** : **Mr Muhammed Osman Hanif**

**Representative** : **Not represented**

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

**Tribunal members** : **Judge E Samupfonda  
Mr J Barlow FRICS**

**Date and venue of  
hearing** : **10 Alfred Place, London WC1E 7LR**

**Date of decision** : **31<sup>st</sup> October 2014**

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**DECISION**

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### **Decisions of the tribunal**

- (1) The tribunal determines that the sum of £3,642.35 is payable by the Respondent in respect of the service charges for the years commencing 1 April 2012, 2013 and 2014.
- (2) The tribunal determines that the Applicant's costs of £2,558.00 are payable by the Respondent in accordance with Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

### **The application**

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service charges payable by the Applicant in respect of the service charge years commencing 1 April 2012, 2013 and 2014.

### **The Application**

2. The Application was determined on the basis of the written representations in accordance with the Directions dated 12 August 2014 as neither party requested an oral hearing.
3. In accordance with the Directions, the Applicant submitted a witness statement by Mr Neil Richard Spurrier, in house Solicitor of Aston Rose (West End) Limited, together with copies of the accounts certified by Glazers Limited for the relevant years.
4. The Respondent was duly notified of these proceedings in a letter from the tribunal dated 1 August 2014 but did not attend the Case Management Conference on 19 August 2014 nor did he comply with the Directions issued.

### **The background**

5. The property which is the subject of this application is described as a first floor flat within a purpose built block of 24 units.
6. Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
7. The Respondent holds 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 issues**

8. From the information provided the tribunal identified the relevant issues for determination as follows:
  - (i) The payability and/or reasonableness of service charges for years commencing 1 April 2012, 2013 and 2014.
  - (ii) The Applicant's costs incurred in the proceedings in the sum of £2,558.00
9. Having considered all of the documents provided, the tribunal has made determinations on the issues as follows.

### **The tribunal's decision**

10. For the year beginning 1 April 2012, the amount claimed is £186.24. For the year 2013 the amount claimed is £1,552.22 and for the year beginning 1 April 2014 the amount claimed is £1753.89. The total amount claimed together with the administration fee for debt recovery fee of £150 is £3,642.35. The tribunal determines that the total amount claimed is payable by the Respondent.

### **Reasons for the tribunal's decision**

11. The items of expenditure and charges are set out in the accounts provided. The tribunal considered the sums shown in all the service charge years and concluded that the costs had been reasonably incurred. The Respondent has not made any representations regarding the service charges levied nor has he disputed the payability of these.
12. With regards to the application for costs by the Applicant, the tribunal has the power to award costs under Rule 13 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 in circumstances where a person has acted unreasonably in bringing, defending or conducting proceedings. The Applicant has claimed costs in the sum of £2,558.00 and submitted a breakdown of the time costs incurred by Aston Rose in preparation of these proceedings. The tribunal concluded that the Respondent has acted unreasonably by failing to acknowledge the application and to engage in these proceedings. In the circumstances, the tribunal determines that the costs claimed are payable by the Respondent.

**Name:** Judge E Samupfonda      **Date:** 31 October 2014

## **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.