



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

Case Reference : **LON/00AL/LSC/2015/0176**

Property : **Flat A, 15 Saunders Road, London SE18 1NT**

Applicant : **Raman Limited**

Representatives : **Circle Residential Management Limited**

Respondent : **Mr Adewunmi Abimbola Adebayo**

Representative : **None**

Type of Application : **Liability to pay service charges**

Tribunal members : **Ms N Hawkes
Mrs S Redmond BSc(Econ) MRICS**

Date and venue of paper determination : **1st July 2015 10 Alfred Place,
London WC1E 7LR**

Date of Decision : **1st July 2015**

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that the sum of £1,846.40 is payable by the respondent in respect of the interim service charge for the year 2015.
- (2) The Tribunal determines that the respondent shall pay the applicant £90 within 28 days of this Decision, in respect of the reimbursement of the Tribunal fees which have been paid by the applicant.

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 interim service charges payable by the applicant in respect of the service charge year 2015.
2. The Tribunal notes that a determination as to the reasonableness of the proposed interim service charges for the year 2014 was made in case number LON/00AL/LSC/2014/0074 ("the previous Tribunal decision").
3. The relevant legal provisions are set out in the Appendix to this decision.

The background

4. It is recorded in the previous Tribunal decision that the property which is the subject of this application comprises a house which has been divided into two flats, each of which is let on a long lease (both dated 19th July 2008).
5. The respondent is the tenant of the ground and upper floor of the building and by his lease has covenanted to pay 66.66% of the total service charge for the building (clauses 1.16, 3.2.4 and 9 of the lease). The interim charge is defined at clause 9.1.3 of the lease.
6. The landlord's repairing obligations are set out in clause 5.3 and in the Fifth Schedule to the lease and provision for insurance is made at clause 5.5.13.1.
7. 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.

The Tribunal's determination

8. The total proposed interim service charge in respect of the house for the year 2015 is £2,769.60 and the budget is made up of the following items: £600 in respect of building repairs; £1,149.60 in respect of buildings insurance; £300 in respect of year end accounting; and £720 in respect of the management fee.
9. It is stated in the Service Charge Estimate for the period ended: 24 Dec 2015, dated 1 June 2015 that the respondent is liable to pay 66.6666% of the budgeted items. The Tribunal notes that clause 1.16 of the lease provides that the service charge percentage is 66.66% rather than 66.6666% but that this difference does not have any significant impact on the figures in the present case.
10. Having considered the applicant's statement of case and supporting documents, and in the absence of any response including alternative sums from the respondent, the Tribunal determines that the proposed interim service charge in the sum of £1,846.40 is reasonable and payable.

Application for refund of fees

11. In its statement of case, the applicant makes an application for a refund of the fee of £90 that it has paid in respect of this application. The applicant states that, if the respondent had not failed to reply to the applicant's correspondence or to pay the service charge when it fell due, there would have been no need to issue this application and so incur a fee of £90.
12. The applicant states that this is not the first time that the landlord has been forced to make an application to the Tribunal due to the respondent's failure to pay the interim service charges and it is the applicant's contention that it should not be put to the cost of the application when the application could have been avoided by a reasonable tenant.
13. The Tribunal notes that the respondent has failed to file any statement of case or objections or comments in response to this application.
14. Taking into account the determinations and the history set out above, the Tribunal orders the respondent to refund the fee of £90 paid by the applicant within 28 days of the date of this decision.

Judge N Hawkes

1st July 2015

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.