



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

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| Case reference | : | LON/00AY/LSC/2017/0070 |
| Property | : | Flat 29, The Picture House, 7 Streatham High Road, London SW16 1EH |
| Applicant | : | Picture House Management Limited |
| Representative | : | Urban Owners |
| Respondent | : | Mr Kostantinos Athanasiou |
| Representative | : | None |
| Type of application | : | Paper determination of the reasonableness of and the liability to pay service and administration charges |
| Tribunal members | : | Judge Robert Latham Mrs Sarah Redmond MRICS |
| Date and Venue of Paper Determination | : | 22 May 2017 at 10 Alfred Place, London WC1E 7LR |
| Date of decision | : | 24 May 2017 |

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that the following sums are reasonable and payable by the Respondent:
- (i) £699.52 – Service Charge for the period 1 July to 31 December 2016;

- (ii) £158.50 – Reserve Fund for the period 1 July to 31 December 2016;
 - (iii) £695.30 - Service Charge for the period 1 January to 30 June 2017;
 - (iv) £158.50 – Reserve Fund for the period 1 January to 30 June 2017.
- (2) The Tribunal determines that the Respondent shall pay the Applicant £100 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicant.

The Application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“the Act”) as to the amount of service charges payable by the Respondent in respect of the service charge year 2016/7. The Applicant is the management company. It employs Urban Owners as managing agents. The application relates to Flat 29, The Picture House, 7 Streatham High Road, London SW16 1EH (“the flat”). The Applicant has provided the Tribunal with the Official Copy of the Register of Title. The Respondent is registered as having acquired the leasehold interest in the flat on 28 May 2010. He gives his address as the flat.
2. The applicant issued its application on 22 February 2017. Annexed to the application form is a “Service Charge Dispute Assessment” dated 26 December 2016 which is said to identify the issues in dispute. The application form identifies the Respondent and gives his address as the flat. The Tribunal has been provided with a letter from the Respondent dated 4 September 2016 in which he gives the flat as his address and describes himself as Konstantinos Athanasiou (see. p.56 of the Bundle). On 24 February, the Tribunal sent the Respondent a copy of the application form.
3. On 3 March, the Tribunal gave Directions (at p.39). On 6 March, the Tribunal sent the parties a copy of the Directions.
4. On 21 March, pursuant to the Directions, the Applicant sent the Respondent the documents relevant to the application. By 18 April, the Respondent was directed to file his Statement of Case and the documentation upon which he intended to rely. The Respondent failed to comply with the Direction.
5. On 19 April, the Applicant notified the Tribunal that it had not received the Respondent’s Bundle. This e-mail was copied to the Respondent at kostas.athanasiou@me.com. On 21 April, the Tribunal wrote to the Respondent alerting him to the fact that he had failed to comply with

the Direction and requiring him to remedy his breach. He was warned of the Tribunal's power to debar him from defending this application pursuant to Rule 9 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. This letter was posted to the flat and e-mailed to the e-mail address which had been notified to the Tribunal. On 28 April, this letter was returned to the Tribunal. Someone had written on the envelope: "Invalid Recipient (sic) – Return to Sender".

6. On 25 April, the Applicant wrote to the Tribunal inquiring whether any response had been received from the Respondent. This e-mail was also copied to the Respondent. On 26 April, the Tribunal confirmed that no response had been received. This e-mail was copied to the Respondent. On 27 April, the Applicant invited the Tribunal to determine the application on the papers, given that the Respondent had failed to take any steps to dispute the application.
7. On 28 April, the Applicant sent its Bundle of Documents to the Tribunal and to the Respondent. This includes a detailed Statement of Case (at p.42) and the documents upon which it seeks to rely. It also includes the documents which it disclosed to the Respondent.
8. On 2 May, the Tribunal issued further Directions. This provided for the application to be determined on the papers in the week commencing 22 May. On 4 May. The Tribunal e-mailed these Directions to the Respondent.
9. On 4 May, "Kostas Athanasiou", using the e-mail address kostas.athanasiou@me.com, responded to the Tribunal referring to "SPAM e-mails" received from the Tribunal. He stated that he did not recognise a respondent with a legal name of "Kostastantinos Athanasiou". He stated that he had formally revoked Urban Owner's implied rights of access. He continues that he had "formally forbid (sic) your company from submitting any personally identifiable information regarding myself into any third party on multiple occasions and they have responded confirming that they have received my letters, latest one dated 26th August 2016".
10. On 8 May, the Tribunal e-mailed a further letter to the Respondent asking him to confirm that he was the registered leaseholder of the flat. The Tribunal stated that the letter was not being sent by post as the letter dated 21 April had been returned. The Respondent was asked to provide the Tribunal with a postal address. The Respondent was warned that if he failed to comply, the Tribunal could debar him from taking any further part in the proceedings. On 17 May, the Tribunal sent a further e-mail seeking a response. By return, the Tribunal received an e-mail: "Thanks for the e-mail. This e-mail address is no longer being monitored and no longer in use".

11. On 8 May, the Tribunal directed the Applicant to provide the tribunal with up to date Official Copy of Register of Title from the Land Registry in respect of the flat. The Applicant has provided these particulars. The Tribunal is satisfied that Konstantinos Athanasiou is the registered owner of the leasehold interest in his flat. The Respondent has given the Land Registry the flat as his address. This is the address that the Respondent has notified to his landlord. The Respondent has not provided any other address to the Tribunal. The Tribunal is further satisfied that kostas.athanasiou@me.com is the e-mail address that the Respondent has provided to the Applicant. The only conclusion open to this Tribunal is that the Respondent has taken an informed decision not to engage with this application.

Our Determination

12. The Applicant is the management company for the Picture House and is owned by the leaseholders of the building. The Directors of the Applicant Company are also leaseholders of the flats in the building. The level of the service charges and planned works are agreed at yearly meetings to which all leaseholders are invited. The Applicant has provided minutes of the last three meetings (at p.88).
13. The Applicant has provided a copy of the Respondent's lease. The Respondent's "service charge proportion" is defined at Clause 6(g)(i) of the lease. The Applicant has provided a Schedule (at p.71) explaining how the various service charges are apportioned between the leaseholders. The Respondent has not sought to challenge this apportionment. Paragraph 5 of the 5th Schedule permits the management company to collect a reserve fund.

£699.52 – Service Charge for the period 1 July to 31 December 2016

14. The draft budget for the year is at p.63. This was prepared by the managing agents and was approved by the Directors of the Applicant Company. The demand, dated 9 May 2016, is at p.75. The Respondent has taken an informed decision not to defend this application. We have considered the items included in the budget. We are satisfied that these are reasonable and are payable.

£158.50 – Reserve Fund for the period 1 July to 31 December 2016

15. The draft budget included a reserve fund contribution for the year of £20,000 (p.64). We are satisfied that this sum is reasonable and payable.

£695.30 - Service Charge for the period 1 January to 30 June 2017

16. The draft budget for the year is at p.69. Again, this was prepared by the managing agents and was approved by the Directors of the Applicant Company. The demand, dated 2 January 2017, is at p.76. We have considered the items included in the budget. We are satisfied that these are reasonable and are payable.

£158.50 – Reserve Fund for the period 1 January to 30 June 2017

17. The draft budget included a reserve fund contribution for the year of £20,000 (p.70). We are satisfied that this sum is reasonable and payable.

Application for refund of fees

18. The Applicant has made an application for a refund of the fees that he had paid in respect of the application. Having regard to our determinations above, the Tribunal orders the Respondent to refund the fees paid by the Applicant within 28 days of the date of this decision.

Name: Judge Robert Latham **Date:** 24 May 2017

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

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.