



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

Case reference : **LON/00BH/LVA/2017/0001**

Property : **14B Warren Road, Chingford,
London E4 6QS**

Applicant : **Mr Wayne King**

Representative : **In person**

Respondent : **Albacourt Limited**

Representative : **N/A**

Type of application : **Liability to pay an administration
charge**

Tribunal member : **Judge Hargreaves**

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

Date of decision : **9th August 2017**

DECISION

Decisions of the Tribunal

1. The Tribunal has no jurisdiction to determine whether the disputed administration charge of £195 is reasonable or not.
2. The Applicant is liable to pay “Three guineas” for the reasons given below.

REASONS

1. *s158 Commonhold and Leasehold Reform Act 2002* (“the 2002 Act”) provides that *Schedule 11* of the Act has effect in relation to administration charges. Certain applications can be made to the Tribunal. Relevant statutory provisions are attached.
2. This is an application made by Mr King about his liability to pay an administration charge demanded by the Respondent in a letter dated 11th May 2017, in response to the Applicant’s request for permission to install a new front door. The salient part of the reply from the Respondent (i) gives permission subject to certain conditions which do not concern the Tribunal and (ii) requires payment “*of our administrative and management charges of £195*”, which does concern the Tribunal, because it prompted the Applicant to apply to the Tribunal on or about 18th May for a determination as to his liability to pay the sum demanded.
3. Directions were given by the Tribunal on 14th June 2017.
4. The Respondent has not responded to the directions in any way. It would be disproportionate to give the Respondent any further time to comply.
5. The relevant lease is dated 6th March 1961. The term is 999 years. The Applicant covenants in clause (14) “*Not to make any alterations in or to the said maisonette without the approval in writing of the Lessors to the plans and specifications thereof and to make all such alterations in accordance with such plans and specifications and to pay to the Lessors a fee of Three guineas in respect of every such approval ...*”. (This reflects the sum of 2 guineas charged under clause (17) for registration of other dispositions, for example.)
6. The fee payable in respect of granting consent for alterations is therefore fixed at 3 guineas (roughly £3.25 in “new” money, not adjusted for inflation, as to which there is no provision). It is not a “variable” administration charge, but a fixed charge.

7. The Tribunal only has jurisdiction to determine the reasonableness of a *variable* administration charge: see *paragraph 2, Schedule 11, 2002 Act*.
8. The consequences are that the administration charge under clause (14) is limited to 3 guineas, the Tribunal has no jurisdiction to consider whether the Respondent is entitled to charge £195, but – for the sake of clarity - as a matter of contract, the Respondent is not entitled to charge the £195 or anything apart from 3 guineas, unless and until the relevant provisions are varied.

Judge Hargreaves

9th August 2017

Appendix of relevant legislation

Commonhold and Leasehold Reform Act 2002

Schedule 11, paragraph 1

- (1) In this Part of this Schedule “administration charge” means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—
 - (a) for or in connection with the grant of approvals under his lease, or applications for such approvals,
 - (b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
 - (c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
 - (d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.
- (2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c. 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.
- (3) In this Part of this Schedule “variable administration charge” means an administration charge payable by a tenant which is neither—
 - (a) specified in his lease, nor
 - (b) calculated in accordance with a formula specified in his lease.
- (4) An order amending sub-paragraph (1) may be made by the appropriate national authority.

Schedule 11, paragraph 2

A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

Schedule 11, paragraph 5

- (1) An application may be made to the appropriate tribunal for a determination whether an administration 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) Sub-paragraph (1) applies whether or not any payment has been made.
- (3) The jurisdiction conferred on the appropriate tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.
- (4) No application under sub-paragraph (1) 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.
- (6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
- (a) in a particular manner, or
 - (b) on particular evidence,
- of any question which may be the subject matter of an application under sub-paragraph (1).