



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

Case reference	:	CAM/22UG/LIS/2019/0008
Property	:	63 William Harris Way, Colchester, Essex CO2 8WJ
Applicant	:	Solus Two (Colchester) Management Company Limited
Representative	:	PDC Law
Respondent	:	S B Youngs (Properties) Limited
Representative	:	None
Type of application	:	Determination of service charges: section 27A Landlord and Tenant Act 1985
Tribunal member(s)	:	Judge Wayte
Date of decision	:	1 April 2019

DECISION

Decisions of the tribunal

- (1) The tribunal determines that it has no jurisdiction in this case since the service charges are in respect of commercial premises.
- (2) The case be transferred back to the Chelmsford County Court.

The application

1. This case was sent to the tribunal by an order of Chelmsford County Court dated 31 December 2018 for a determination of what, if any, service charges are due and payable.
2. The claim is under a lease dated 21 September 2009 in respect of a retail unit known as Berechruch Barbers. The terms of the lease require that the property may only be used for commercial use.
3. The jurisdiction of this tribunal under section 27A of the Landlord and Tenant Act 1985 is to determine the payability of a service charge. Service charges are defined in section 18 of that Act as “an amount payable by a tenant of a dwelling...”.
4. It follows that as in this case the service charges levied are in respect of commercial premises, the tribunal does not have jurisdiction and the matter must therefore be referred back to the County Court pursuant to the tribunal’s case management powers under Rule 6 of the Tribunal procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Name: Judge Wayte

Date: 1 April 2019

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).