



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

Case Reference : CHI/00LC/LIS/2019/0054

Property : Flat 4, Troudau House,
296-302 Chatham Hill, Chatham,
Kent ME5 7DU

Applicant : Maxiwood Limited

Representative : Coole Bevis LLP, solicitors

Respondent : Mr M G Yahyi and Mr O A Banjoko

Representative :

Type of Application : Service charges and costs

Tribunal Member(s) : Judge D. Agnew

Date and venue of CMH : By telephone on Thursday 12th September
2019 at 10.00 am

Date of Determination : 12th September 2019

DETERMINATION

Background

1. On 18th July 2019 District Judge Ellis in the County Court at Worthing transferred to the Tribunal the claim by the Applicant against the Respondent in respect of service charges for Flat 4, Troudau House, 296-302 Chatham Hill, Chatham, Kent ME5 7DU and the claim for contractual costs. The claim was for a declaration under section 81 of the Housing Act 1996 (“the Housing Act”) that as at the date of the issue of proceedings the Respondents owed £3,126.62 in service charges.
2. Directions were issued for there to be a Case Management Hearing by telephone on 12th September 2019. Ms Pollard of Messrs Coole Bevis, solicitors appeared on behalf of the applicant and Mr Yahyi joined in the conference call. He confirmed that he also had authority to speak on behalf of Mr Banjoko.

The hearing

3. Mr Yahyi confirmed that he and Mr Banjoko agreed that as at the date of the issue of the County Court proceedings they owed the sum of £3,126.62 in service charges as claimed. That being the case, the Tribunal’s jurisdiction ceases as section 27A(4) of the Landlord and Tenant Act 1985 says that no application may be made in respect of a which has been agreed or admitted by the tenant. Consequently, the Applicant is entitled to the declaration it seeks under section 81 of the Housing Act and a County Court Order to that effect will accompany this determination.
4. The Respondents have continued to make payments to the Applicant since the issue of the County Court proceedings and Mr Yayhi agreed that the amount owing as at 7th August 2019 had reduced to £2326.62 as appeared on the statement of account produced by the Applicant’s managing agents.
5. The Respondents’ real dispute with the Applicant was as to the costs that they were seeking to recover from the Respondents. He said that they were always willing to pay a regular amount to reduce the debt and that there was no need for costs to be incurred in seeking to recover what was owed.
6. It is apparent, however, that the amount claimed in the County Court proceedings does not include a figure for costs. If those costs have been claimed as an administration charge they were not included in the statement of account. If they are to be claimed as contractual costs they will need to be claimed separately and the Respondents will be entitled to challenge those costs under Paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.

Dated the 12th September 2019

Judge D. Agnew

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

