



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

Case Reference : **LON/00AG/LSC/2019/046**

Property : **22B Camden High Street, London
NW1 0JH**

Applicant : **Mr. Renee Wilson**

Representative : **In person**

Respondent : **Independent Developments
Limited**

Representative : **Mr. T Dewey of Pelham Associates
(managing agents)**

Type of Application : **Service charges**

Tribunal Members : **Judge Tagliavini
Mrs E Flint, DMS FRICS IRRV**

**Date and venue of
hearing** : **11 March 2020
10 Alfred Place, London WC1E 7LR**

Date of Decision : **15 March 2020**

DECISION

Summary decisions of the tribunal

- I. The tribunal finds that the legal costs in the sum of £525 are not payable by the applicant.**
 - II. The tribunal finds that the insurance revaluation cost in the sum of £280.50 is reasonable and payable by the applicant.**
 - III. The tribunal refuses the application for the reimbursement of the application and hearing fees.**
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The application

1. This is an application seeking the tribunal's determination on the payability of service charges under the provisions of section 27A of the Landlord and Tenant Act 1985 ("the 1985 Act").

The premises

2. The subject premises is a flat in a mixed use residential and commercial property comprising 2 residential properties with a dental surgery on the ground floor. The applicant holds an interest under a lease dated 27 March 1987 made between Readyclass Limited and Sheila Ann Schiavo for a term of 99 years from that date under which his contribution towards service charges is 35%. This lease was surrendered and regranted between Independent Developments Limited and Johanna Mason & Jeremy James Mason dated 25 November 2011 for a term between 25 March 1987 and ending on 24 March 2176.

The issues

3. The applicant sought to dispute the liability to and the reasonableness of two of the 2019 service charge items:
 - (i) Legal costs of £525 incurred for the solicitor's fees incurred in respect of a section 20 notice dated 7 May 2019.
 - (ii) Costs of £283.00 by Savills for a survey and reassessment of the value of the building for insurance purposes.

The hearing

4. The tribunal were provided with a bundle of documents by each party on which they relied at the hearing of the application. Mr. Wilson appeared in person and Mr. Dewey appeared for the respondent.

The Applicant's evidence

5. In a signed Witness Statement dated 26 January 2020 and in his oral evidence, Mr. Wilson told the tribunal that the legal fees of £1500 including VAT (of which his 35% share is £525) charged to the respondent by Radius Law for the service of a section 20 notice is (i) excessive and (ii) not provided for in the lease.
6. Mr. Wilson told the tribunal that the cost of the works contained in this section 20 notice had been found to be unreasonable by the tribunal in its decision *LON/00AG/LSC/2019/0248*, although that tribunal had not dealt with the legal costs incurred in serving the notice.
7. Mr. Wilson also challenged the cost of the insurance revaluation survey in the total sum of £810 plus VAT carried out by Savills and invoiced on 31 July 2019 and stated that (i) Savills should not have been used by the respondent in light of its history in contributing to previous disputes in respect of major works and (ii) the leases provides for the lessee being consulted when such a survey is carried out.
8. Mr. Wilson told the tribunal that he had carried out extensive refurbishment work in his flat including to his kitchen fittings and fixtures and that the cost of replacing these had not been taken into account in the insurance revaluation as no request for access to his flat had been made by the respondent for this purpose in accordance with clause 5(b) of the lease.

The Respondent's evidence

9. The tribunal was provided with a paginated file of documents by the respondent and signed statements dated 25 November 2019 and 17 February 2020 from Mr. Dewey a consultant at Pelham Associates and the respondent's managing agents for the subject building.
10. Mr. Dewey opposed the application and stated that the legal fees incurred for the service of the section notice by a solicitor (Radius Law) were reasonable. Mr. Dewey stated that he had wanted to ensure that the notice was in the correct form in light of the contentious history between the parties. Mr. Dewey referred the tribunal to clause 5(e) of the lease which he believed allowed legal services to be used at the discretion of the landlord and which were properly included in the collection of service charges. These legal costs were identified in the invoice dated 23 May 2019 from Radius Law for the sum of £1,500 (including VAT) of which Mr. Wilson's 35% share is £525.
11. Mr. Dewey also stated that the majority of Pelham Associates' portfolio concerns commercial properties with only a small number of residential properties. It was his understanding that it was 'common practice' for solicitors to advise on the service and general

communication of a section 20 notice and therefore this sum was reasonable and recoverable under the terms of the lease.

12. Mr. Dewey told the tribunal that it is usual and good practice to have properties revalued for insurance purposes every three years. On this occasion Savills had carried out the revaluation at a cost of £810 (including VAT) as per the invoice dated 31 July 2019 of which Mr. Wilsons 35% share is £280.50.

The tribunal's decisions and reasons

13. The tribunal finds that the use of solicitors for the preparation of the section 20 notice dated 7 May 2019 was unnecessary and the cost both excessive and unreasonable. The tribunal finds that as the respondent's agent was familiar with the content requirements of a section 20 notice it did not reasonably require consultation with solicitors in respect of its service.
14. Further, the tribunal finds that clause 5(e) of the lease does not make provision for the recovery of legal costs. The tribunal finds that the lease does not use clear and unambiguous language in respect of legal costs and finds that these are not recoverable under the terms of the lease.
15. Therefore, the tribunal disallows in its entirety the sum of £525 as it finds this is not reasonable or payable by the applicant.
16. The tribunal finds that the cost of the revaluation insurance survey is reasonable and payable by the applicant. The tribunal finds that it is good practice and in accordance with RICS to carry out an insurance revaluation every three years in order to properly protect the interests of the parties. The tribunal finds that the choice of valuer is open to the respondent and the use of Savills a firm highly experienced in the property market was appropriate.
17. The tribunal finds that clause 5(b) of the lease does not provide a requirement for consultation with the lessee or the arrangement of access to his flat before the revaluation could be carried out although the tribunal considers that the cost of fixtures and fittings within an individual demise are items that should be considered in the revaluation process.
18. Therefore, the tribunal finds that the cost of Savills' insurance revaluation of £810 (including VAT) to be reasonable and payable by the applicant in the sum of £280.50 represent his 35% share.

Section 20C costs and reimbursement of fees

19. Mr. Dewey told the tribunal that the respondent's costs in respect of these tribunal proceedings would not be added to the applicant's service charges. In any event, so far as is necessary the tribunal would

make an order under section 20C thereby preventing the recovery of these costs through the applicant's service charges.

20. The tribunal does not make an order for the reimbursement of the application or hearing fee. The tribunal considers that in light of its decisions, both parties have been partly successful although the tribunal considers the issues could have been resolved by the parties outside of the tribunal despite the breakdown in the relationship between the applicant and the respondent's agent.

Name: Judge Tagliavini

Date: 15 March 2020

Rights of Appeal

1. 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 this case.
2. 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.
3. 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 each reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. 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.

