



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

Case Reference : **MAN/13UB/LSC/2019/0072**

Property : **Flat 2, Park Court, Foregate Street,
Chester, CH1 1JG**

Applicant : **Ms Rebecca Veats**

Representative : **Cullimore Dutton**

Respondent : **Jaffri Property Limited**

Representative : **Dr Jaffri**

Type of Application : **Section 27A Landlord and Tenant Act
1985 – Service charges**

Tribunal Members : **Judge J.E. Oliver
Tribunal Member S.A. Kendall**

**Date of
Determination** : **23rd January 2020**

Date of Decision : **30th January 2020**

DECISION

Decision

1. The Respondent is to pay the Applicant's costs in the sum of £1000 plus Vat together with the application fee of £100 within 28 days of the receipt of this decision.
2. It being recorded the Respondent has confirmed to the Applicant there are no service charges payable for the years 2017/2018, 2018/2019 and 2019/2020 for Flat 2, Park Court, Foregate Street, Chester.
3. The substantive application upon the issue of the reasonableness and payability of the service charges for those years is withdrawn.

Background

4. This is an application by Rebecca Veats ("the Applicant") for a determination upon the reasonableness and payability of the service charges relating to Flat 2, Park Court, Foregate Street, Chester ("the Property") for the years 2017/2018, 2018/2019 and 2019/2020.
5. The Respondent is the freeholder, Jaffri Properties Limited., represented by Dr Jaffri.
6. The Property is held under a Lease ("the Lease") dated the 28th February 1983 between Eastgate Services (Chester) Limited (1) and James Albert Cahill and Irene Cahill (2).
7. Clause 3 (ii)(b) of the Lease provides for the Lessees to pay the service charge by a payment of £10 on account, at the time of completion of the Lease and in each year thereafter.
8. Clause 3 (ii)(c) then provides for the Lessees to pay the balance once the actual costs in each year are known and certified either by the Lessor or surveyor.
9. The Applicant disputed the service charges for the years stated for two reasons. Firstly she disputed the work claimed for had been done and secondly, the Respondent had not complied with the terms of the Lease. The Respondent had issued service charge demands upon estimated and not actual costs.
10. The Applicant stated she had attempted to resolve the issue with the Respondent, without success. She had tried to sell the Property. The first sale had failed due to the Respondent saying the Applicant was in arrears with her service charge and failed to answer the purchaser's enquiries of him. A further buyer had now been secured. Due to the service charges remaining an issue, the Applicant had lodged the application with the Tribunal for a determination upon the issue.
11. The Applicant filed her application on 27th August 2019. Directions were issued on 9th September 2019 providing for the filing of statements and evidence of the service charges owed.
12. In a letter dated 24th September 2019, Dr Jaffri, on behalf of the Respondent, confirmed the Applicant did not owe any service charges for the years in dispute.
13. The Applicant agreed to withdraw her application, subject to the payment of her costs in the sum of £1000 plus VAT and the application fee.

Determination

14. The Respondent has confirmed the Applicant does not owe any service charges for the years in dispute. Upon this basis the Applicant, through her representative has confirmed she is willing to withdraw her application, subject to the payment of her costs.
15. The Tribunal agrees the Applicant has been put to unnecessary cost by the Respondent's failure to properly deal with the issue of the service charges. It has not charged them in accordance with the Lease and only the issue of proceedings has resolved the matter.
16. Rule 13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 provides an order for costs should only be made if a party to proceedings has acted "unreasonably". It is determined the Respondent has done so here. The Respondent does not challenge the Applicant's assertions regarding its conduct and has only conceded that no service charges are payable after the issue of the application.
17. Rule 13 further provides an order may be made if the other party has had an opportunity to respond to any claim for costs and thereafter the Tribunal may summarily assess the costs.
18. The Applicant's representative submitted their claim for costs by a letter dated 25th November 2019 and a copy was forwarded to the Respondent. No response was received. The Tribunal considers the amount claimed to be reasonable and payable.

Tribunal Judge J Oliver
23 January 2020