



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

Case Reference : **MAN/00BU/LSC/2020/0072**

Property : **9 Woodhouse Court, Davyhulme Road,
Urmston, Manchester M41 7DH**

Applicants : **Woodhouse Court Residents Ltd**

Respondent : **Craig Edwards**

Type of Application : **Section 27A, Landlord and Tenant Act 1985**

Tribunal Members : **A M Davies, LLB
J Jacobs, MRICS**

Date of Determination : **15 April 2021**

Date of Decision : **4 May 2021**

DECISION

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DECISION

1. The service charges payable by the Respondent for the period 1 January 2018 to 28 September 2019 amount to £1229.92, ie

1 January 2018 to 31 December 2018 £720

1 January 2019 – 28 September 2019 £509.92
2. Administration charges, legal costs and interest are not payable under the terms of the Respondent's lease.

REASONS

BACKGROUND

1. Woodhouse Court is a purpose built development consisting of 2 buildings and their grounds. One building contains flat 1 – 4, and the other contains flats 5 – 14, of which flat number 9 is the Respondent's. In the Respondent's lease the 2 buildings are referred to as "the Buildings".
2. The development is owned by the Applicant, and until 2018 two directors of the Applicant attempted to carry out management duties including administration of the service charge account. Having failed to do so correctly over a number of years, in May 2018 the directors appointed Revolution Property Management as their managing agents. The arrears indicated on the Respondent's service charge account to 31 March 2018 amounting to some £3,600, were written off as unrecoverable.
3. The Respondent having failed to pay further service charges as demanded, in May 2019 the Applicant issued debt recovery proceedings in the Manchester County Court, claim number F2QZ9H55. The Respondent filed an informal defence and sought disclosure of documents. On 27 February 202 Deputy District Judge Henley referred the claim to this Tribunal for determination of service charges payable by the Respondent, pursuant to section 27A, Landlord and Tenant Act 1985 ("the Act").
4. Directions were given by the Tribunal on 13 November 202, and the matter was listed for video hearing.

THE LAW

5. Section 27A of the Act enables a party to a lease to apply to this Tribunal for a determination as to the reasonableness and payability of service charges. No service charge is payable by the leaseholder unless it is provided for in his lease. Management costs incurred by a landlord are recoverable from leaseholders provided the service to which they relate is of a reasonable standard and the amount claimed is reasonable.

THE LEASE

6. The Respondent's lease is dated 11 December 1980 and creates a term of 99 years from 25 December 1974. He has not extended the term. The ground rent is £10 per year.
7. At clause 2(2) of the lease the Respondent covenants to pay one fourteenth of the landlord's costs of insuring the Buildings, paying water rates, maintaining, repairing, redecorating and renewing the service media and common areas of the property, employing maintenance staff for that purpose, exterior window cleaning, paying managing agents' fees, and "*all other services which the Lessor may at its absolute discretion provide or install in the said Buildings for the comfort and convenience of the Lessees*" (clause 2(2) (vii)).
8. In addition the Respondent covenants to pay one tenth of the cost of maintaining, repairing, redecorating and renewing the structure of the Buildings.
9. The service charge account to 25 December in each year is to be certified by the landlord's managing agents. The leaseholders are required to pay in advance on 25 March and 25 September each year the same amount as was payable for the same period in the previous year, a balancing account being taken at the year end. In practice, the service account year is taken as ending on 31 December.
10. There is provision in the lease neither for payment of administration charges in the event of a breach of covenant, nor for the landlord to create a sinking fund in order to defray the cost of occasional major repairs.

THE RESPONDENT'S CASE

11. The Respondent's case consisted of emails sent to the Applicant's solicitors. In them (so far as is relevant to the present decision) he objected to the poor state of repair of the Buildings, and to the appointment of managing agents. He indicated at the hearing that in his view the service charges generally were too high.
12. The Respondent did not comply with the Tribunal's directions requiring him to state which service charges he objected to, whether he wished to oppose the claim for administration charges and whether he wished to make an application under section 20C of the Act. He did not file a witness statement.

HEARING

13. At the video hearing, the Applicant was represented by Mr Green, agent for the Applicant's solicitors LMP Law Ltd. Mr Patel of Revolution Property Management was present but had not filed a witness statement. Mr Edwards represented himself.
14. The Tribunal had a bundle of documents prepared by the Applicant. This included, as the Applicant's case, two statements of case prepared and signed by LMP Law Ltd together with service charge accounts, budgets and demand for the years 2018 and 2019, and copies of the invoices raised by Revolution Property Management.
15. No evidence was presented by the Respondent.

FINDINGS

16. In pre-issue correspondence with the Respondent, LMP Law Ltd claimed that the Applicant was entitled to administration charges amounting to £80, interest and recovery of legal fees. Their letter of 6 March 2019 states "*you are contracted to pay legal costs under the terms of your lease.*" In fact the lease does not require the Respondent to pay administration charges or legal costs, save in respect of costs incurred by the landlord "*in or in contemplation of any proceedings under Sections 146 and 147 of the Law of Property Act 1925*". The issue of proceedings in the County Court was a debt recovery exercise, and not a precursor to forfeiture of the lease, which would have required an application to the Tribunal under section 168 of the Commonhold and Leasehold Reform Act 2002.
17. The lease contains no provision for payment of interest on arrears.
18. The Applicant's service charge budget in 2018 did not refer to a sinking fund, but the 2019 budget includes the following sums noted as "sinking fund": £1000 for non-structural expenditure (of which the Respondent pays one fourteenth) and £1200 for expenditure on the structure of the Buildings (of which the Respondent pays one tenth). In pre-issue correspondence LMP Law Ltd told the Respondent that these sums were claimed pursuant to clause 2(2)(vii) of the lease, quoted above. At the hearing Mr Green conceded that that clause does not authorise recovery of monies towards a sinking fund. The amounts claimed, deducted and payable by the Respondent for the first nine months of 2019 are as follows:

Period	Amount claimed £	Deduction calculation	Amount deducted £	Amount payable £
1 1 2019 – 28 9 2019	653.49	$\pounds 1000/14 = \pounds 71.43$ per year, $\pounds 5.95$ per month $\pounds 1200/10 = \pounds 120$ per year, $\pounds 10$ per month	143.57	509.92

19. In the absence of evidence to the contrary, the appointment of Revolution Property Management as the Applicant's managing agents was reasonable.
20. In the absence of evidence to the contrary, the figures in the service charge accounts, including the managing agents' fees, are reasonable management costs incurred by the Applicant and the appropriate contributions are recoverable as service charges from the Respondent under the lease.

AM Davies
Tribunal Judge
4 May 2021



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Date of Decision : **4 May 2021**

Date of Correction : **23 June 2021**

CORRECTION CERTIFICATE

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This is a certificate under the powers conferred on the Tribunal by Rule 50 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 to correct clerical or accidental errors that have been discovered in the abovementioned Decision.

The Decision shall be amended as follows:

- (A) Removal of paragraph 2 of the Decision and insertion of the following paragraph:
 - 2. Administration charges and interest are not payable under the terms of the Respondent's lease.

- (B) In the last two lines of paragraph 2 of the Reasons for Decision, removal of the date 31 March 2018 and insertion of the date 31 December 2017.

- (C) Removal of paragraph 16 of the Reasons for Decision and insertion of the following paragraph:
 - 16. In pre-issue correspondence with the Respondent, LMP Law Ltd claimed that the Applicant was entitled to administration charges amounting to £80, interest and recovery of legal fees. In fact the lease does not require the Respondent to pay administration charges.

REASONS

- 1) Referral from the County Court was limited to issues of service charges and administration charges, and did not require the Tribunal to make determinations relating to costs.

- 2) The Applicant waived £3600 service charges on the Respondent's account for the period 2013 to 2017 inclusive.