



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

Case reference : **CHI/00ML/LIS/2022/0026**

Property : **2 Girton House, 193 Kingsway, Hove
BN3 4FB**

Applicant : **Maxiwood Limited**

Representative : **Coole Bevis LLP**

Respondent : **Mr Michael McFadden**

Representative :

Type of application : **Transferred Proceedings from County
Court in relation to service charges,
ground rent, interest and costs**

**Tribunal
member(s)** : **Judge D Whitney**

Date of hearing : **26th September 2022**

DECISION

Background

1. The Applicant seeks, and following a transfer from the County Court the Tribunal is required to make, a determination of those matters within its jurisdiction.
2. The original proceedings were issued in the County Court under Claim No. H8QZ78Z6 and were transferred to the Tribunal by District Judge Griffiths by order dated 17th June 2022 .
3. The Applicant also claimed ground rent, interest and costs. These are matters within the jurisdiction of the Court.
4. The Respondent has filed a document said to be a Defence in the court proceedings. The document simply recorded that the Respondent was taking legal advice.

DECISION

Hearing

5. The hearing took place as a hybrid hearing. Ms Thomas of counsel represented the Applicant. Both she and the Respondent attended Havant Justice Centre in person. Mr H Singh, the Applicants witness attended by CVP. The hearing was recorded.
6. The Tribunal had an electronic hearing bundle prepared by the Applicant's solicitor and a skeleton argument from Ms Thomas. References in [] are to pages within the bundle.
7. Mr McFadden had not complied with the directions and had filed no witness evidence or documents. At the commencement of the hearing he explained he had taken legal advice from three solicitors but this had been unsatisfactory. He confirmed he was aware he was meant to have complied with a direction to file evidence by 19th August 2022. He had with him a bundle of documents he sought to rely upon but this had not been sent to the Claimants solicitor. He explained he had asked his solicitor to submit documents but she had not done so. He seemed to believe the Claimant was somehow responsible for this.
8. I was not satisfied there was any good reason why he had not submitted the documents sooner or made any application. I refused to admit the further documents as to do so was likely to lead to an adjournment and Mr McFadden appeared to have no good reason for non-compliance. I indicated I would allow the Respondent to cross examine the witness and to make any submissions he wished.
9. Mr McFaddens defence was: *"I am taking further legal advice due to inconsistencies or possible dishonesty on the part of Philip Bretherton & Maxiwood."* Nothing further had been submitted.

10. Ms Thomas called Mr Singh who was the director of the Applicant's managing agent. He confirmed his witness statement and was taken through the relevant demands.
11. I allowed Mr McFadden opportunity to ask any questions he wished of the witness.
12. I further allowed Mr McFadden to make submissions and he sought to suggest that on occasion incorrect amounts had been demanded of him by way of ground rent and the roof was in poor repair.
13. In reply it was explained that it was agreed that ideally the roof would be replaced but currently ad hoc repairs were being undertaken given issues with payments of service charges. Mr Singh also explained that a number of repairs had been funded by insurers following successful claims.

Reasons

14. The Applicant claimed various service charges. They relied upon the particulars of claim and the lease [10-34]. Mr McFadden appeared to accept the lease allowed the recovery of interim service charges and balancing payments. I am satisfied that the lease allowed the recovery of service charges as claimed by the Applicant.
15. Copies of the various demands and supporting documents were within the bundle [50-76]. Mr McFadden did not challenge receiving these. His challenge appeared to be that he did not believe the Property was adequately managed. I am satisfied that the demands were sent and they comply with the terms of the lease and statute.
16. Mr McFadden had not raised any specific challenge as to the reasonableness of the sums. I am satisfied that he had opportunity to do so if he wished. I find the sums claimed were reasonable.
17. I find the following service charges were due and payable by Mr McFadden:

On account service charge 16.08.2019 to 15.08.2020 £1600 (£845 left to pay)

Balancing service charge due under y/e account 08.2019 £32.22

On account service charge 16.08.2022 to 15.08-2021 £1,919.99

Balancing service charge due under y/e account 08.2022 £399.35

Total to pay £3196.56

18. I orally confirmed the amount I found due and confirmed this written decision would follow prior to my sitting as a County Court judge.

Rights of appeal

Appeals in respect of decisions made by the Tribunal

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 must be made as an attachment to an email addressed to rpsouthern@justice.gov.uk

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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).

Appeals in respect of decisions made by the Tribunal Judge in his capacity as a Judge of the County Court

An application for permission to appeal may be made to an appeal judge in the County Court since No application was made to the Judge at the hearing.

Please note: you must in any event lodge your appeal notice within 21 days of the date of the decision against which you wish to appeal.

Further information can be found at the County Court offices (not the tribunal offices) or on-line.

Appeals in respect of decisions made by the Tribunal Judge in his capacity as a Judge of the County Court and in respect the decisions made by the FTT

You must follow **both** routes of appeal indicated above raising the FTT issues with the Tribunal Judge and County Court issues by proceeding directly to the County Court.

