



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

Case reference : **CHI/00MS/LSC/2022/0062
G39YJ586**

Property : **Flat 6, Coxford Court, 62 Coxford
Close, Southampton, SO16 6DB**

Applicant : **JAC Investments Limited**

Representative : **W.H. Breadding and Son
Investments Limited**

Respondent : **Mr Adil Osman
Mrs Ilona Patrycja Osman**

Representative :

Type of application : **Transferred Proceedings from
County Court in relation to service
charges**

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

Venue :

Date of decision : **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 service charges under section 27A of the Landlord and Tenant Act. These are matters within the jurisdiction of the Tribunal.
2. The original proceedings were issued in the County Court under Claim No. G39YJ586 and were transferred to the Tribunal by District Judge Underhill by order dated 25 April 2022.
3. The Applicant has also claimed ground rent, interest and court fees. These are matters within the jurisdiction of the Court.
4. Directions were issued on 15th August 2022 requiring both parties to file and serve any evidence relied upon. The Applicant did so but nothing was received from the Respondent save an email confirming they intended to attend.

DECISION

Hearing

5. The hearing was attended by Ms S Jordan and Ms C Mitchell from the Applicants managing agents. A letter of authority from the Applicant was provided to the Tribunal.
6. The Respondents did not attend but the evening before the hearing emailed as follows:

“Dear Sirs

With a great regret we wish to inform you, that due to medical condition, I , representative of the Respondent, Mrs Osman, am unable to attend tomorrow’s (Monday, 26th of September) hearing.

I sincerely apologise for the short notice and the potential delay in proceedings that this will cause but especially recently, my long term physical condition has put a lot of pressure on my mental well-being. Due to this, I won’t be able to face the hearing with a healthy mind.

If my Medical Certificate is needed, I’ll provide a copy on request.

We would like to request to postpone the hearing if possible. I’ll then provide dates of my medical appointments to be taken into consideration.

Once more our sincere apology.

Yours sincerely

Mr & Mrs Osman”

7. The Applicant’s representatives wished to proceed.
8. I determined that the hearing should proceed. I had requested my clerk to email the Respondent and request a copy of their medical certificate but this was not supplied. I had no medical evidence in support of any adjournment. Also no explanation was given as to why Mr Osman could not attend on his own. Further I took account of the Respondents failure to comply with the directions to file any evidence upon which they replied. Taking account of all matters I determined it was in the interests of justice to proceed and determine the matter not least due to the fact the proceedings had been first issued over two years ago.
9. Ms Jordan took me through the documents filed. These included service charge demands and an example Summary of Rights and Obligations. Demands for all the sums claimed were within the bundle. Ms Jordan relied upon the lease for the Property being a document dated 15th November 1961 made between Superior Properties Limited and Rachel Tennyson Moore. This provided that the leaseholder would pay 1/6th of service charge costs and insurance premiums. The lease allowed recovery of managing agents fees.
10. Ms Jordan explained that it is the freeholder who organises the insurance. In respect of managing agents costs there is a contract with the client although this had not been provided. The costs were £30 plus vat per unit but this had been increased from 2018 to £75 plus vat per unit.
11. Ms Jordan accepted little actual work had been undertaken in recent years but she contended this was due to issues with the leaseholders at the Property. She in particular referred to issues with the Respondent which had caused the local authority to consider taking planning enforcement action. The papers included correspondence undertaken by the managing agents.

Findings and reasons

12. I am satisfied that the lease allows the recovery of the items claimed. A copy of the lease was within the papers. I am also satisfied that the demands themselves are valid and so the amounts claimed being managing agents’ fees and insurance costs are in principle due and owing.
13. The Defence filed by the Respondent (being the only document they had filed) did not appear to challenge their obligation to pay under

the lease and the demands but questioned the reasonableness of the costs.

14. Turning to the insurance I am told that the Property consists of 6 flats. The Respondents case as to a challenge is not clear but I am satisfied that the sum claimed is reasonable.
15. In respect of the managing agents fees the Defendant suggests that they are not properly managing and the Property is falling into disrepair. Ms Jordan explained the steps the agent has been undertaking in an attempt to have work undertaken. Plainly there are difficulties with the Property. I note however the level of fee claimed is exceptionally modest. Looking in the round at matters and taking account of the explanation given by Ms Jordan I am satisfied that the cost is reasonable.
16. I find the insurance premiums claimed from September 2017 to December 2020 totalling £1,116.34 are due and payable. I also find the managing agents fees for the period 2017 to 2021 inclusive totalling £342 are due and payable.

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.

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.