



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

Case Reference : CHI/24UG/LSC/2022/0037

Property : 56 Oakleigh Square, Hampshire Lakes,
Hammond Way, Yateley, GU46 7AG

Applicant : Alan Anning

Representative : In person

Respondents : Anchor Hanover Group

Representative : Justin Bates - Counsel

Type of Application : Application for reimbursement of fees paid

Tribunal Members : Judge N P Jutton and Mr B Bourne MRICS
MCI Arb

Date of Hearing : 14 November 2022

Date of Decision : 21 December 2022

DECISION

- 1 At the end of the hearing on 14th November 2022, the Applicant made an application pursuant to Rule 13(2) of the Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules 2013 that fees paid by him to the Tribunal be reimbursed to him by the Respondent.
- 2 The Tribunal directed that the Respondent may if it wished submit to the Tribunal written representations in response by 4 p.m. on 9th December 2022.
- 3 The Tribunal has received a written representation from the Respondent's solicitor opposing the application and a written reply from the Applicant.
- 4 The Applicant says that in his view he did achieve success in respect of certain of his submissions to the Tribunal. Indeed, he says he achieved a very successful result. The Applicant says that he had raised a complaint with the Respondent. He was not satisfied with their response and he asked for his complaint to be reviewed by a "designated person" that being Adrian Collett the Hampshire County Councillor for the area in which the property is situated. Mr Collett wrote to Mr Anning on 2nd August 2021 (page 101A) stating "*I do not consider that the responses given are an acceptable way of dealing with a very significant issue and my conclusion is that you should either refer this matter to the First Tier Tribunal or take it further with the Housing Ombudsman Service in order to resolve this matter, one way or the other, in a proper manner*". On 28th August 2021, Mr Collett wrote to the Housing Ombudsman service (page 100A) stating "*I believe that the landlord should either provide a convincing and satisfactory explanation of why Mr Anning's complaint is not correct, or they should pay the reimbursement that he is claiming*". Although the Respondent has incurred costs in addressing the Applicant's application and in representation before the Tribunal that, says the Applicant, was the Respondent's choice. The fact he says that the Respondent chose to be represented at the hearing before the Tribunal by Counsel clearly indicates that the Respondent took the matter seriously.
- 5 The Respondent says that the Applicant did not achieve success on any of the points that he raised before the Tribunal although the Respondent acknowledges the Tribunal did find two errors (described by the Respondent as "minor") in the Respondent's approach to certain aspects of its administration of the service charge. The Respondent says that it has tried, not least through its internal complaint's procedure, to address the Applicant's complaints on a number of occasions. The issues the Respondent says were not complex and that there was no need for the matter to be referred to the Tribunal. The Respondent has, in the event, incurred what it describes as "great cost" in trying to explain matters to the Applicant and in responding to his application to the Tribunal. The Respondent says that it has not sought to recover its costs from the Applicant because it acknowledges that the Applicant has a right to understand its treatment of service charges. However, the

Respondent says that it shouldn't have to reimburse fees to the Applicant simply because he doesn't understand how the service charge is treated. The Respondent makes the point that it's a not for profit/charitable registered provider of social housing and it must be protective of the monies that it holds. The Respondent contests the Applicant's application for reimbursement of fees because it feels otherwise it might be seen to encourage unnecessary or even vexatious applications.

- 6 The issues before the Tribunal were whether certain expenses incurred in the operation and running of the restaurant and the staffing of the laundry could be recovered under the terms of the lease as part of the service charge and if so, whether expenses incurred had been reasonably incurred.
- 7 The Tribunal determined that staffing costs incurred by the Respondent in running the laundry had been reasonably incurred. However, that costs incurred in respect of the provision of private housekeeping services were not relevant costs that could be recovered as part of the service charge and nor should income received by the Respondent in respect of the provision of private housekeeping services be credited to the service charge account. The Tribunal determined that staffing costs incurred by the Respondent in running the restaurant were reasonably incurred but that catering costs incurred in respect of the restaurant were not relevant costs and could not be recovered as part of the service charge. Further, that income received from the restaurant by the Respondent should not be credited to the service charge account.
- 8 Accordingly, in the view of the Tribunal the Applicant did achieve a degree of success. The Applicant was entitled to make an application to the Tribunal and it was not unreasonable for him to make the application not least given the steer that he received from the County Councillor Mr Collett that he should do so.
- 9 In the circumstances, having carefully considered the submissions made by both parties, the Tribunal determines that it is reasonable to make an Order that the Respondent reimburse the Applicant the fees that he has paid to the Tribunal.
- 10 Accordingly, the Tribunal orders the Respondent to reimburse to the Applicant fees paid by the Applicant to the Tribunal in the total sum of £300.00.

Dated this 21st day of December 2022

Judge N P Jutton

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.