



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

**Case reference** : **LON/00AF/LSC/2021/0181**

**HMCTS code  
(paper, video,  
audio)** : **V: CVPREMOTE**

**Property** : **3 LANGLEY MANOR, 29 BUCKNALL  
WAY, BECKENHAM BR3 3XX**

**Applicant** : **MICHAEL FRANCIS EGAN**

**Representative** : **IN PERSON**

**Respondent** : **FIRSTPORT PROPERTY SERVICES  
LIMITED**

**Representative** : **MS CERI EDMOND**

**Type of application** : **For the determination of the liability to  
pay service charges under section 27A of  
the Landlord and Tenant Act 1985**

**Tribunal members** : **Tribunal Judge Mullin & Ms Alison  
Flynn**

**Venue** : **CVP**

**Date of decision** : **13<sup>th</sup> January 2022**

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**DECISION**

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### **Covid-19 pandemic: description of hearing**

This has been a remote video hearing which has been consented by the parties. The form of remote hearing was V: SKYPEREMOTE. A face-to-face hearing was not held because it was not practicable and no-one requested the same. The documents that I was referred to are in a bundle of 388 pages, the contents of which I have noted. The order made is described at the end of these reasons.

### **Decisions of the tribunal**

- (1) The Application is dismissed.
- (2) The s.20C application is granted to the extent the Respondent shall not seek to recover more than 50% of its costs of this application by way of service charges against the Applicant. .]

### **The hearing**

1. The hearing of this application took place on 18<sup>th</sup> November 2021. The Applicant appeared in person and was assisted by Mr. Baker. The Respondent was represented by Ms. Edmonds of Counsel.
2. The Tribunal is grateful to the parties for their assistance during the hearing.

### **Reasons for Tribunal's decision**

3. The Property in this application is a purpose built flat (Flat 3) which sits within a Block (Langley Manor) which itself sits within a wider Estate (Langley Park)
4. The Applicant seeks a determination of the payability of the service charges for the years 2015 to 2021. The Applicant sought to amend his application on 23 October 2021 to include service charges from 2002-2015 (during which period he was not a leaseholder) but this was refused by Judge Carr on 8 November 2021. The application therefore only covers service charges from 2015 onwards.
5. The Applicant's complaint primarily concerns electricity charges. He complains that the Block has been charged the full amount for some electricity that was used for the Estate. The Respondent accepts that there was a mistake in how the electricity charges were attributed across the various buildings in the Estate and agrees to re-charge the amount of £3,910.94 for the period 1 December 2014 to 30 November 2021. The Applicant has rejected this offer.

6. The Applicant also disputes as unreasonable 3 separate sums charged to the Block which he describes as 'legal & professional fees'. These are amounts of £936 on 30/1/2017, £1,932 on 21/3/2017 and £936 on 13/4/2018. The Respondent's position is that these are not management fees but are charged in connection with major works. It is also worth noting these figures appear to be the Block cost of those fees rather than the Applicant's share of them under his lease.
7. In the Tribunal's judgement this application fails on both issues. In relation to the electricity, the Applicant seems to have misunderstood the nature of the Tribunal's jurisdiction. The Tribunal has jurisdiction to consider the payability of a "service charge" that is a charge payable by Applicant as a tenant of a dwelling (see s.18 of the Landlord and Tenant Act 1985). It does not have jurisdiction to determine payability as between the RTM company and the Respondent. It seems this misunderstanding led to the Applicant failing to include in the bundle any relevant service charge demands which included reference to the disputed charges. That makes assessing the payability of those charges difficult if not impossible. Indeed, it is unclear if a share of all or any of the disputed electricity charges have ever been demanded of the Applicant and as such this application does not get off the ground.
8. In any event, the Respondent has conceded that it will recharge to the RTM company £3910.94 for the period December 2014 to 30 November 2021. That is actually a larger reimbursement than the Applicant was seeking in the Application notice which at page 10 in relation to the electricity costs shows that the Applicant is seeking £3,768. Again, it should be noted that these sums appear to relate to Block costs rather than the Applicant's share of them.
9. In relation to the disputed charges from 2017, the Tribunal is satisfied with the explanation provided by the Respondent that these related to a scheme of major works and were reasonably incurred. The Respondent has produced invoices and given evidence in their statement of case as to how these figures came to be calculated and charged. It is right that the Respondent's evidence is quite thin on these points but the Applicant bears the burden of proving that the charges are unreasonable and bearing in mind we need to make our decision on the balance of probabilities, we consider the charges to be reasonable and reasonably incurred as part of a s.20 consultation process.
10. The Applicant had also asked for an order concerning moving an electricity meter to a new location. The Tribunal has no power to make such an order.

### **Application under s.20C and refund of fees**

11. At the end of the hearing, the Applicant made an application for a refund of the fees that he had paid in respect of the application/ hearing<sup>1</sup>. Having heard the submissions from the parties and taking into account the determinations above, the tribunal does not order the Respondent to refund any fees paid by the Applicant. The Applicant has been unsuccessful on the application and it would not be just in those circumstances for the fee to be refunded.
  
12. In the application form the Applicant applied for an order under section 20C of the 1985 Act. Having heard the submissions from the parties and taking into account the determinations above, the tribunal determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act, so that the Respondent may not charge any more than 50% of its costs incurred in connection with these proceedings before the tribunal through the service charge. The Tribunal considers this to be the correct order because although the Applicant has been unsuccessful there has been a substantial concession made by the Respondent during the course of the Application and it may well be that these proceedings could have been avoided had that concession been made at an earlier point.

**Name:** Tribunal Judge Mullin

**Date:** 13<sup>th</sup> January 2022

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<sup>1</sup> The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

## **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then 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 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).