



**In the FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL
PROPERTY) and in the COUNTY COURT
AT Edmonton sitting at 10 Alfred Place,
WC1E 7LR**

Tribunal Case references : **LON/00AK/LAC/2022/0005 (Court proceedings)**
LON/00AK/LAC/2020/0024 (Tribunal application)

County Court Claim Number : **G2AA3W98**

Property : **7 Soper Mews, Harston Drive, EN3 6GQ**

Applicant (Claimant) : **Enfield Island Village Phase 1 Management Limited (County Court)**
Georgia Walford (Tribunal)
Georgia Walford (County Court)

Respondent (Defendant) : **Enfield Island Village Phase 1 Management and Tenants Association Limited**

Type of application : **Transfer from County Court Administration Fees (Tribunal proceedings)**

Representatives : **Mr V Ioannou (Managing Agent for Enfield Island)**
Mr B Maunder Taylor

Tribunal : **Judge Martyński**
Ms S Phillips MRICS

Date of hearing : **18 October 2022**

Date of original decision : **28 October 2022**

Date of reviewed decision : **21 February 2022**

REVIEWED COMBINED FIRST-TIER TRIBUNAL AND COUNTY COURT DECISION

Background

- A. Following an application for permission to appeal made by Enfield Island Village Phase 1 Management Limited, the Tribunal decided to set aside and review paragraphs 37-40 of its original decision. The reason

for deciding to review is that the Tribunal considered that there was some ambiguity in its communications with the parties prior to the hearing as to whether it would deal with the issues contained in paragraphs 37-40 in the hearing. The Tribunal felt that both sides should be given the opportunity to make further submissions regarding those issues.

- B. The Tribunal gave directions for the parties to make further submissions on the issues dealt with in paragraphs 37-40 of the original decisions.
- C. Both parties made written submissions following these directions.
- D. Having considered the parties' submissions, the Tribunal has decided not to change the decisions it made in paragraphs 37-40 nor to alter those paragraphs in any way.

Summary of decisions

1. The claim for £1793.54 (plus interest) is dismissed (County Court decision)
2. No Administration Charges are payable by Ms Walford (First-tier Tribunal (('FTT')) decision)
3. An order is made pursuant to s.20C Landlord and Tenant Act 1985 that none of the costs incurred, or to be incurred, in the County Court or tribunal proceedings (covered by this decision) by Enfield Island Village ('EIV') are to be regarded as relevant costs to be taken into account in determining the amount of any Service Charge payable by Ms Walford (County Court and FTT decision).
4. An order is made pursuant to paragraph 5(A), Schedule 11 Commonhold and Leasehold Reform Act 2002 that any liability Ms Walford has in respect of litigation costs incurred or to be incurred in these proceedings is extinguished. (County Court and FTT decision)
5. No order for costs in respect of the costs of EIV. (County Court order)
6. EIV must pay to Ms Walford the sums that she has paid to the tribunal to pursue her application, those being £200. Payment is to be made within 28 days of the date of this decision.
7. Ms Walford has permission to make an application in respect of her costs. Any such application must be made within 14 days of the date of this decision. (County Court decision)

Background

8. Ms Walford is the owner of the long leasehold interest in 7 Soper Mews ('the Flat') which is part of a development of flats and houses. The owner of the freehold interest appears to be Fairfield Rents Limited. Also, party to the lease are EIV and Enfield Island Village Trust. EIV is a tenant management company and is responsible for the maintenance of the development. EIV has appointed ICRI Ltd as managing agents. Mr Ioannou is a director of ICRI. Under the terms of her lease, Ms Walford

is obliged to make Service Charge payments to EIV (referred as ‘the Company’ in the lease).

9. On 4 November 2020, EIV issued proceedings in the County Court against Ms Walford. The particulars of that claim were set out as follows:-

The Claimant claims (1) debt of £1793.54 arising from agreements for goods and services particulars of which appear in invoice(s) from April 2020 and (2) interest pursuant to S.69 of the County Court Act 1984.

10. On 10 November 2020, Ms Walford issued an application in the FTT challenging various Administration Charges levied by EIV.
11. On 10 December 2020 DDJ Harris made an order transferring the County Court proceedings to the FTT.
12. The FTT issued directions on 4 May 2022. Those directions provided that the tribunal would administer both sets of proceedings and that a Tribunal Judge would, where necessary, exercise the functions of a Judge of the County Court and dispose of any matters that fell within the sole jurisdiction of the Court.

Ms Walford’s lease

13. The lease provisions as to Service Charges can be summarised as follows:

The tenant’s covenants include an obligation to;

Contribute and pay on demand to the Company [EIV] the proportionate part set out in paragraph (j) of Part V of the Schedule of all costs charges and expenses from time to time incurred or to be incurred by the Company in performing and carrying out the obligations and each of them under Part IV of the Schedule as set out in the Notice mentioned in paragraph 11 of Part IV of the schedule....[paragraph 3.5.1]

The lease then provides;

The Company shall keep proper books of account of all costs charges and expenses incurred by it in carrying out its obligations under this Part of the Schedule and an account shall be taken on the 31st day of March of each year during the term of the amount of the costs charges and expenses incurred since the date of the commencement of the term or of the last preceding account as the case may be [Part IV, paragraph 9]

The account shall be prepared and audited by a qualified accountant who shall certify the total amount of the costs charges and expenses (including the audit fee for the account and any other professional accountancy charges) for the period to which the account relates and the proportionate amount due from the Lessee to the Company under this Lease credit being given for any amount which shall already have been paid under Clause 3.5.2 [Part IV, paragraph 10]

The Company shall within two months of the date of which the account is taken serve on the Lessee a Notice in writing stating the said total and proportionate amount certified in accordance with the last paragraph together with details if known and an estimate of the amount required for the following year [Part IV, paragraph 11]

14. In summary therefore, it appears that there is an annual accounting and then an annual demand for Service Charges incurred or to be incurred.
15. Two other clauses of the lease need to be mentioned as follows:

Clause 5.1 – this provides that any dispute between the lessee and any other lessees or owners shall be referred to the landlord’s surveyor for determination

Clause 5.2 – gives a power to the lessor to re-enter in case of non-payment of rent or other breach of lease

The issues

16. The issues were clarified at the hearing. A key document was a statement for the subject property issued by EIV dated 24 September 2020 and covering the period 07/12/17 – 23/09/20 with a final balance of £1793.54. The statement set out a series of credits and debits. The debits consisted of various Service and Administration Charges. So far as Service Charges were concerned, the amounts charged to the account totalled £3575.00. Those Service Charge debits were yearly sums debited in April of 2018, 19 & 20. The total credits (payments made by Ms Walford) amounted to £3378.00, leaving a debit balance of £197.00. Ms Walford had, during the period of the statement, been paying her Service Charge in monthly instalments. It was explained that, after the last date in the statement (23/09/20), she had continued to pay monthly instalments and therefore had paid the remaining balance of Service Charge. The reason therefore for the debit balance on the account of £1,739.54 was; (a) the balance of £197.00 for Service Charges (since paid), and; (b) the Administration Charges. Ms Walford’s application to the FTT challenging Administration Charges covered the charges in the statement and various other charges.
17. Ms Walford’s case was argued as follows:
 - (a) The Service Charges were not demanded in accordance with the terms of her lease and were accordingly not payable. Further, Service Charge demands did not comply with section 47 Landlord and Tenant Act 1987 (‘the 1987 Act’).
 - (b) The demands for the Administration Charges did not comply with section 47 Landlord and Tenant Act 1987 nor were they accompanied with a statement of rights and obligations in accordance with paragraph 4, Schedule 11 Commonhold and Leasehold Reform Act 2002 (‘the 2002 Act’). Further, there was no provision in the lease for the levying of such charges. Yet further, some of the charges were in fact Service Charges or that there was no basis for the charges.

The disputed charges and the FTT decisions

The 1987 and the 2002 Acts

18. Mr Ioannou did not dispute the fact that the demands for Service and Administration charges did not contain the name and address of the landlord. He further conceded that the demands for the Administration Charges did not contain the information required by the 2002 Act.
19. Sections 47 & 48 of the 1987 Act provide as follows;
 47. Landlord’s name and address to be contained in demands for rent etc.
 - (1) Where any written demand is given to a tenant of premises to which this Part applies, the demand must contain the following information, namely—
 - (a) the name and address of the landlord, and

(b) if that address is not in England and Wales, an address in England and Wales at which notices (including notices in proceedings) may be served on the landlord by the tenant.

(2) Where—

(a) a tenant of any such premises is given such a demand, but

(b) it does not contain any information required to be contained in it by virtue of subsection (1), then (subject to subsection (3)) any part of the amount demanded which consists of a service charge or an administration charge (“the relevant amount”) shall be treated for all purposes as not being due from the tenant to the landlord at any time before that information is furnished by the landlord by notice given to the tenant.

(3) The relevant amount shall not be so treated in relation to any time when, by virtue of an order of any court or tribunal, there is in force an appointment of a receiver or manager whose functions include the receiving of service charges or (as the case may be) administration charges from the tenant.

(4) In this section “demand” means a demand for rent or other sums payable to the landlord under the terms of the tenancy.

48. Notification by landlord of address for service of notices.

(1) A landlord of premises to which this Part applies shall by notice furnish the tenant with an address in England and Wales at which notices (including notices in proceedings) may be served on him by the tenant.

(2) Where a landlord of any such premises fails to comply with subsection (1), any rent, service charge or administration charge otherwise due from the tenant to the landlord shall (subject to subsection (3)) be treated for all purposes as not being due from the tenant to the landlord at any time before the landlord does comply with that subsection.

(3) Any such rent, service charge or administration charge shall not be so treated in relation to any time when, by virtue of an order of any court or tribunal, there is in force an appointment of a receiver or manager whose functions include the receiving of rent, service charges or (as the case may be) administration charges from the tenant.

20. The problem with Ms Walford’s argument is that sections 47 & 48 deal with payments that are to be made to the landlord. EIV is not the landlord, it is a party to the lease as a Management Company. Therefore, the demands from EIV are not invalidated by the failure to comply with the provisions of the 1987 Act [*Pendra Loweth Management Limited v North* [2015] UKUT 0091 (UC)].

21. Paragraph 4 to Schedule 11 of the 2002 Act provides;

22. Notice in connection with demands for administration charges

4(1) A demand for the payment of an administration charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to administration charges.

(2) The appropriate national authority may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.

(3) A tenant may withhold payment of an administration charge which has been demanded from him if sub-paragraph (1) is not complied with in relation to the demand.

(4) Where a tenant withholds an administration charge under this paragraph, any provisions of the lease relating to non-payment or late payment of administration charges do not have effect in relation to the period for which he so withholds it.

The 2002 Act does not appear to relate to only payments to a landlord. Accordingly, so far as Administration Charges are concerned, given the

failure to comply with paragraph 4 of Schedule 11, none of the Administration Charges referred to in these proceedings are payable.

The validity of the demands for Service Charges within the terms of the lease

22. Given that the only amount of Service Charge outstanding as at the date of the issue of the County Court proceedings was £197 and given that this sum was later paid and is accordingly no longer in issue, there is no need for us to deal with Ms Walford's argument regarding the mechanics of the lease as to the demanding of Service Charges.

Administration Charges - general

23. In the hearing, Mr Ioannou sought to refer to some of the lease terms as containing a power for EIV to levy Administration Charges, in particular those clauses dealing with a breach of the lease on the part of the tenant.
24. As to the levying of Administration Charges, the lease contains the following general provisions;
- (a) A standard clause relating to costs incurred by the Lessor regarding forfeiture [clause 2.5]
- (b) Clauses obliging the tenant to indemnify the Lessor in respect of a breach of the lease [clauses 2.12.1 and 2.12.2]
- (c) Paragraph 15 of Part IV provides as follows:

The Company shall take all and any action or remedy available in its own name and on behalf of the Lessor against any Lessee who defaults in making any payment as provided for in Clause 5.1 or 5.2 or otherwise and the Company will be entitled to collect all costs charges and expenses (including Solicitors costs Barristers fees Surveyors fees and Court costs or otherwise and also its own administration expenses) properly incurred in relation or incidental to any such action which the Company is unable to collect from any such defaulting Lessee by incorporating all such items expended or to be expended as part of the costs charges and expenses of the Company in carrying out its obligation as referred to in Clause 10 of this part and shall be properly accounted for in accordance with Clause 11 again of this part

The reference here to clause 5.1 & 5.2 may be a mistake, we think the references should be to clauses 3.5.1 and 3.5.2

Administration charges contained in the account dated 24 September 2020 and claimed in the County Court proceedings

25. *Scaffolding erection/dismantling - £600 (07/12/17):* Just on the wording of the charge, it is difficult to see how this could be an Administration Charge. Mr Ioannou's justification for the charge was as follows; scaffolding had been erected to deal with a roof leak. The work was carried out and it was intended to leave the scaffolding in place until there was rainfall so as to test the repair. Ms Walford demanded that the scaffolding be removed. The scaffolding was removed, and it was then found that the repair had not been successful, therefore the scaffolding had to be erected again, the cost of that being the charge of £600. Mr Ioannou's justification for this charge was not entirely clear but he appeared to allege that Ms Walford's request for the scaffolding to be removed was somehow a breach of her lease and the cost of that breach was the cost of the re-erection of the scaffold.

26. There was quite obviously no breach of the lease on Ms Walford's part that would justify this charge. This leads us to question Mr Ioannou's understanding of the lease and/or his willingness to levy charges in very questionable circumstances. This is a concern that unfortunately will be a feature of many of our decisions in this case.
27. *Fly tipping - £25.00 (3 separate charges) dated; 22/03/18, 11/09/19 and 14/07/20:* These are not charges levied in respect of any fly tipping directly on Ms Walford's part. Mr Ioannou's explanation for these charges is that, if there was a yearly budget in the Service Charge for fly tipping removal, this may just encourage residents to fly tip, given that they had paid for the service. There was therefore a small provision for fly tipping in the annual budget and then these one-off charges to illustrate to residents the costs of fly tipping. These charges are in no sense an Administration Charge. The charges, according to Mr Ioannou do not relate specifically to the actual costs of any particular fly tipping on any particular location. Mr Ioannou appeared to believe that he could just levy these service charges at will despite the fact that the mechanism for the Service Charge, as set out in the lease, was for a yearly one-off annual charge levied after an account had been taken of the year's expenditure.
28. Again, the charges are quite obviously not payable and again we are concerned at Mr Ioannou's lack of understanding of the lease or alternatively, his disregard of the terms of the lease.
29. *Deferred payment charges - £100 dated 24/04/18 and 28/04/20:* As stated above, the lease provides for an annual payment of Service Charge. Mr Ioannou however offers leaseholders the opportunity to pay the Service Charge in ten monthly instalments payable by standing order. If leaseholders take this option, they are charged a fee of £100. There is no provision in the lease for such a charge.
30. In the hearing, Mr Ioannou tried to justify this charge as a contractual arrangement. The offer was the arrangement to pay by instalments, the price of that was £100. The problem with this analysis (beyond it being outside of the terms of the lease) is that there is no evidence that such a contract was ever entered into by Ms Walford. Ms Walford appears to have taken the unilateral decision to pay her Service Charge in monthly instalments in a sum of her choosing and not by direct debit. If there was a valid contractual offer to pay the Service Charge by standing order in ten instalments, it was never accepted by Ms Walford. Accordingly, the sum is not payable by her.
31. *Surveyor's report - £90.00 dated 26/07/18:* Mr Ioannou's justification for this was that Ms Walford had obtained a Surveyor's report which she had sent to him regarding issues at the building. Mr Ioannou did not accept the findings of that report and obtained his own report.
32. We have no idea as to how the cost of obtaining of a report could result in an Administration Charge and for that cost to be levied against Ms Walford. The charge is not payable.
33. *Late payment charges - £100.00 dated 29/08/19 and 03/08/20:* These are charges for late payment of Service Charges. Assuming that the

Service Charges were validly demanded, the lease provides that such charges are to be paid within 21 days of becoming due [paragraph 3.5.1 of the lease], there is no dispute that the charges were not paid within 21 days because, as stated above, Ms Walford chose to pay those charges in monthly instalments. It may be therefore that, under the terms of the lease, such charges could be levied (although we form no final view on whether the lease allows such charges or whether the charges are reasonable). They are however not payable given that the demands were not accompanied with the statutory information.

34. *Estimated legal cost contribution - £98.36 – 18/09/19*: Mr Ioannou agreed that this was in fact a Service Charge to pay for some advice. As explained above, the lease does not allow ad hoc charges throughout the year to supplement the Service Charge fund. Accordingly, the sum is not payable.
35. *Legal process administration fees - £280.00 – 23/09.20*: This is a fee charged for the collation of papers and information by the managing agent for a case to be sent to legal representatives.
36. The entire claim has been dismissed; it cannot therefore be reasonable for a charge to be levied to prepare the claim for solicitors. We realise that, arguably at the outset of the proceedings, Ms Walford was £197 in arrears of Service Charge, however, that is only arguable and in any event, given that she had been making regular payments by instalments, would not have justified the issuing of proceedings which included a number of other spurious claims.

Other Administration charges challenged in Ms Walford's application to the tribunal

37. *Administration litigation fee - £1690.67 – 21/03/19*: This sum appears in a statement of account in respect of the subject property which is dated 3 August 2020. The sum disappears from the later account dated 24 September 2020 which was discussed above. No copy of a demand for this sum was produced.
38. According to Mr Ioannou, this sum was placed on Ms Walford's account in connection with court proceedings brought by Ms Walford. It does not appear that this sum was being pursued. No court order had been made in the proceedings in question which would allow a claim for costs to be made. We can only conclude that Mr Ioannou placed this sum on the account because he felt that he was being pursued or harassed by Ms Walford and that, in his opinion, she should contribute to his costs or the management company's costs. Clearly, this sum is not payable.
39. *£185.00*: This figure is made up of the £100 court fee paid to the court on issue of these proceedings and the £80 fixed solicitor's fee for the issue of the claim. No costs have been awarded to the Claimant in the proceedings and accordingly these sums, if they were demanded as Administration Charges, would be neither reasonable nor payable.
40. *Costs - £11,050.00*: This is a particularly alarming demand. Mr Ioannou explained that this sum represented costs incurred as a result of a previous application made to the tribunal by Ms Walford in which she

sought an order for the appointment of a Manager. The application was withdrawn before it could be determined by the tribunal. No application was made for a costs order in those proceedings and there is clearly no basis whatsoever on which such a demand could be made personally against Ms Walford or be payable by her.

S.20C Landlord and Tenant Act 1985

41. Ms Walford asked the tribunal to make an order preventing Mr Ioannou from seeking any costs incurred in these proceedings from her by way of a demand in respect of Service Charges.
42. Ms Walford has been successful in resisting the entire claim made against her in the County Court proceedings. She has also been entirely successful in her application to the tribunal in respect of Administration Charges. This would indicate that an order under s.20C should be made.
43. Mr Ioannou argued that EIV was a tenant company and that Ms Walford was part of that company so was effectively seeking an order against herself. If the leaseholders did not pay for the costs of these proceedings, there was no-one else who would be liable to pay.
44. We note Mr Ioannou's point, but we consider that an order should be made. The County Court proceedings were fundamentally flawed from the outset. None of the demands for Administration Charges sent to Ms Walford contained the basic statutory information to make them valid. That is a fundamental failure of management. Further, we have found various charges to be wholly unjustified. Yet further, we have formed the impression that Mr Ioannou, as evidenced by his management failures described in this decision, either does not understand the lease and the relevant law or chooses to ignore them. It appears to us as a tribunal and to me as a Judge of the County Court, that he is cavalier in his approach to management. In those circumstances, it would be perverse not to make a s.20C order.

Paragraph 5A, Schedule 11, Commonhold and Leasehold Reform Act 2002

45. Ms Walford also made an application for an order extinguishing her liability to pay an Administration Charge in respect of the litigation costs (incurred or to be incurred) of these proceedings. We as the tribunal and I as a Judge of the County Court make that order for the reasons given above.

County Court costs

46. It follows from the above that no order is made in respect of the Claimant's costs of the County Court proceedings.
47. If the Defendant in the County Court proceedings wishes to make an application in respect of her costs, any such application should be made within 14 days of the date of this decision.

Tribunal costs

48. For the reasons set out above, the tribunal makes an order that EIV pays to Ms Walford the sums that she has paid to the tribunal to pursue her

application, those being £200. Payment is to be made within 28 days of the date of this decision.

Deputy Regional Tribunal Judge Martyński

21 February 2023

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).