



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

Case reference : **LON/00BA/LSC/2022/0317**

Property : **17 Claremont Lodge,15 The Downs,
London SW20 8UA**

Applicant : **Roderick Scott**

Representative : **In person**

Respondents : **Claremont Lodge (Wimbledon) Limited**

Representative : **N/A**

Type of application : **Determination of payability and
reasonableness of service charges
pursuant to s27A LTA 1985**

Tribunal : **Judge Shepherd
Oliver Dowty MRICS**

Date of Determination : **27th February 2023**

© CROWN COPYRIGHT 2013

DETERMINATION

1. This is an application made pursuant to s 27A Landlord and Tenant Act 1985 for a determination as to the payability and reasonableness of service charges. The Applicant is Roderick Scott the lessee of Flat 17, Claremont Lodge, 15 Downs, London, SW20 8UA (“The premises”). The Respondents are Claremont Lodge (Wimbledon) Limited. They have been debarred from any further

participation in the proceedings because they failed to comply with directions (see the order of Judge Hawkes dated 23rd January 2023).

2. The Applicant complains that the Respondents have been wrongly apportioning his service charge. This is in spite of previous proceedings which were settled based on a concession made by the Respondents that the apportionment was incorrect. Under the lease for the premises the apportionment for the building in which the premises are located is 10.52%. Under clause 1 (6) it is stated that maintenance etc of each building will be charged equally to each occupier. There is in addition an “estate charge” for maintaining the amenity lands and the basement of the properties on the estate (clause 1(5)) (4% for each flat). Para 3 (b) (1) sets out which items are to be apportioned at 10.52% and Para 3 (B) 2 requires payment of 20% for internal painting, lighting and cleaning only. Essentially the Applicant states that all service charges have been charged with him paying 20% of the total building costs when the lease actually states the apportionment should be 10.52%. save for the items in clause 3 B(2).
3. The costs recovered are : Fire systems and emergency lighting; general repairs and maintenance; fire risks and health and safety assessment -total cost £1200. The Applicant was charged 20% of this cost (£240) when he says he should have been charged 10.52% (£126.24). None of the charges relate to the limited scope of works identified above at para 3B(2) that incur 20% therefore the Applicant is right and he has been overcharged.
4. The Respondents have offered to repay him the overcharge. They need to do this but they also need to register the validity of his complaint and ensure that he or anyone else on the estate is not overcharged in the future. If they think the apportionment is wrong there are remedies available to them.
5. The Tribunal confirms that the Applicant is entitled to a refund of £113.76 because the service charge has been wrongly apportioned. In addition, an order

under s 20C Landlord and Tenant Act 1985 is made preventing the Respondents from seeking to recover any sums by way of legal costs from the service charge.

Judge Shepherd

27th February 2023

ANNEX - RIGHTS OF APPEAL Appealing against the tribunal's decisions

1. A written application for permission must be made to the First-tier Tribunal at the Regional tribunal office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.
3. 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.
4. The application for permission to appeal must state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers
5. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.