

10455



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

Case reference : **LON/00AE/LSC/2014/0383**

Property : **Talbot Court, Blackbird Hill,
Kingsbury, London NW9 8SB**

Applicant : **Southern Land Securities Limited**

Representative : **Mr Brendan Milward**

Respondent : **18 leaseholders of Talbot Court**

Representative : **Mr Navin Shah**

Type of application : **For the determination of the
reasonableness of and the liability
to pay a service charge**

Tribunal members : **Ruth Wayte
Michael Mathews
Laurelie Walter**

**Date and venue of
hearing** : **9 December 2014, 10 Alfred Place,
London WC1E 7LR**

Date of decision : **9 December 2014**

DECISION

Decisions of the tribunal

- (1) The tribunal determines that the sum of £9,000 is payable for the service charge year ending 25 March 2014.
- (2) The Applicant having confirmed that it will not be seeking to recover its costs in relation to these proceedings, the tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985 or for the reimbursement of the tribunal fees paid by the Applicant.

The application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the payability of service charges for the year ending 25 March 2014, originally claimed at £44,068.06.
2. The Respondents seek an order for the limitation of the landlord's costs in the proceedings under section 20C of the Landlord and Tenant Act 1985. The relevant legal provisions are set out in the Appendix to this decision.

Background

3. This is the latest in a number of disputes between the parties following the purchase of the freehold by the Applicant in 2008. The freehold of the premises (two blocks of flats which number 18 in total) has now been transferred to Talbot Court (Blackbird Hill) Freeholders Limited, a freehold management company, with 2014 being the last service charges sought by the Applicant.
4. Prior to the hearing, the parties had narrowed the issues in dispute to a few items listed in the Scott schedule prepared in accordance with the directions. On the day of the hearing, further discussions between the parties resulted in an agreement which was presented to the tribunal for a determination.

The hearing

5. The Applicant appeared was represented by Mr Brendan Milward at the hearing and the Respondents were represented by Mr Navin Shah.
6. Mr Milward took the tribunal to the service charge demand contained in the bundle, which came to a total of £44,068.06. As detailed in its further submissions to the tribunal before the hearing, the qualifying works had been removed from the service charge demand by the

Applicant and no dispute raised by the Respondents in relation to the items for accountancy, cleaning, electricity, entry phone, gardening and rubbish removal. Prior to the hearing this left in dispute the insurance premium and claims, repairs, professional fees and management fees, amounting to £19,635.80. Having had further discussions with Mr Shah before the hearing, Mr Milward confirmed that the Applicant was prepared to reduce the total service charge demand for the year to £9,000.

7. Mr Shah confirmed that the Respondents would not seek to challenge this amount or seek an order under section 20C of the Landlord and Tenant Act 1985, as the Applicant confirmed that no costs would be sought in any future claim for service charges as a result of these proceedings.
8. In the circumstances the tribunal determines that £9,000 is reasonable and payable for the service charge year ending 25 March 2014. It also makes no order under section 20C of the Landlord and Tenant Act 1985.

Name: Ruth Wayte

Date: 9 December 2014

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 27A

- (1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to -
 - (a) the person by whom it is payable,
 - (b) the person to whom it is payable,
 - (c) the amount which is payable,
 - (d) the date at or by which it is payable, and
 - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
 - (a) the person by whom it would be payable,
 - (b) the person to whom it would be payable,
 - (c) the amount which would be payable,
 - (d) the date at or by which it would be payable, and
 - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which -
 - (a) has been agreed or admitted by the tenant,
 - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
 - (c) has been the subject of determination by a court, or
 - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

Section 20C

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.

- (2) The application shall be made—
- (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
 - (aa) in the case of proceedings before a residential property tribunal, to that tribunal;
 - (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;
 - (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
 - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.