



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

Case Reference	:	CAM/OOMC/LSC/2017/0092
Property	:	Royal Court, Kings Road, Reading, Berkshire RG1 4AE
Applicant	:	Mididol Limited
Representative	:	Mr J Shannon of Chrisaliz Management Services Limited, managing agents for the Applicant and Mr F Bizzari a director of the Applicant
Respondent	:	The Leaseholders at Royal Court as referred to in the application
Representative	:	Mr J Hadap of flat 27, accompanied by Ms Yi-Lin Bennett (flat 4); Mrs V Tandon (flat 10) and Mr J Arokiaraj (flat 23)
Type of Application	:	For the determination of the reasonableness of and the liability to pay a service charge
Tribunal Members	:	Tribunal Judge Dutton Mr D Barden MRICS Mr A Kapur
Date and venue of Hearing	:	The Crowne Plaza Hotel, Reading on 10th January 2018
Date of Decision	:	22nd January 2018

DECISION

Decisions of the tribunal

- (1) The tribunal makes the determinations as set out under the various headings in this Decision.
- (2) The tribunal determines that the Respondents shall pay the Applicant £300 within 28 days of this Decision, in respect of 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 amount of service charges payable by the Respondents named in the Application in respect of the estimated service charge for the year 2017 / 18. In addition the Applicant seeks recovery of outstanding monies in respect of costs associated with the installation of balustrading, for which consultation under s20 of the Landlord and Tenant Act 1985 (the Act) has taken place.
2. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

3. The Applicant appeared through Mr Shannon and Mr Bizzari. The Respondents had not nominated any party to act for them as group. The named Respondents attended, but save for Mr Hadap who had written to the Tribunal (undated) setting out certain concerns but indicating he would not be attending the hearing, no written submissions had been made. We allowed Mr Hadap certain rights of audience.

The background

4. The property which is the subject of this application is a 6 storey building containing 35 flats, car parking, lifts and commercial space at lower ground floor.
5. Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
6. The Respondents holds a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their

costs by way of a variable service charge. The specific provisions of the lease will be referred to below, where appropriate.

7. It would appear that an RTM company had been set up to manage the Property but for reasons which were not wholly clear it had been dissolved. Prior to that RTM Company seeking to take over the management, Mr Bizzari had managed the Property from 2004 to 2009. The RTM Company appears to have ceased involvement in 2014, when its managing agents Atlantis Estates also stopped. There after Chrisaliz Management Services Limited took over, there apparently being a long standing relationship between the Bizzari family and Mr Shannon.

The issues

8. At the start of the hearing the parties identified the relevant issues for determination as follows:
 - (i) The payability and/or reasonableness of estimated service charges demands for the year 2017-18.
 - (ii) The payability of the balustrading costs dealt with under s20 of the Act as evidenced by the quotation from Purdy Gates dated 28th February 2017 in the amount of £6,650 plus VAT
9. Having heard evidence and submissions from the parties and considered all of the documents provided, the tribunal has made determinations on the various issues as follows.

Anticipated service charge expenditure 24th June 2017 to 23rd June 2018

10. It would seem from the budget at page 113 of the bundle that the total estimated service charges for the year were £62,180 for which a demand was sent to Mr Hadap dated 10th July 2017 in the sum of £1,231.16. The demand was expressed to be for the period 24th June 2017 to 24th December 2017.
11. The lease allows the recovery of an interim charges as set out in the Sixth Schedule at paragraph (3) onwards, such sums to be paid by equal half yearly payments in June and December.
12. The witness statement of Mr Shannon gives a detailed explanation of the budgeted costs, which were assessed by reference to the accounts for the service charge year ended June 2016. We could find no fault with the assessment of the interim costs.

13. None of the Respondents who attended challenged these costs and it appeared that 3 of the 4 had paid their due percentage. They were nonetheless unhappy with the management of the Property and some of the costs incurred in previous years. However, no detailed, or indeed any submission had been lodged by any Respondent. We did suggest that as Mr Shannon and Mr Bizzari were present the attendees could take advantage and meet to discuss problems. There certainly appeared to be issues with regard to cleaning and unwanted persons straying onto the Property.

The tribunal's decision

14. The application is dated 22nd September 2017, before there was a liability on the part of the Respondents to make any payments after the December 2017 half year. We were told that monies had been paid and that there was only £1,800 owing in respect of the half year payment to 24th December 2017. The hearing took place on 10th January 2018 and we were not directed to any demand seeking the half yearly sums from December 2017 to June 2018. We were told that there was some £17,261 outstanding for the interim payments from December 2017 to June 2018.
15. The tribunal determines that interim service charge for the period June to December 2017 is recoverable, the amount apparently still outstanding being £1,800, covering the period to December 2017. Subject to service of demands for the interim budget from December 2017 to June 2018 we find that the budget is reasonable and accordingly any sum so demanded, applying the correct percentage, would be due and owing and if it not been paid, now should be.
16. It is essential that the interim demands are settled in time to enable the Applicant to undertake the services it is required to deal with under the lease. Equally the Applicant must ensure that they provide value for money. The lessees can still challenge the actual costs when the accounts are issued if it is felt appropriate.

Costs of the balustrading works under s20 of the Act

17. The balustrading works were apparently a requirement of the Insurers. The Applicant followed the s20 procedures and indeed reinstated the procedure leading to a quote from Purdy Gates dated 28th February 2017 in the sum of £6,650 plus VAT. It would appear that Purdy Gates was a tenant nominated contractor.
18. There are no objections to the procedure under s20, nor the costs associated. Indeed only £1,332 remains outstanding from lessees.

The tribunal's decision

19. The tribunal determines that the amount payable in respect of service charge item for the balustrading works is £6,650 plus VAT being the amount quoted by Purdy Gates. It is now payable by all Respondents who have failed to do so.

Application for a refund of fees

20. 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/hearing¹. Having heard the submissions from the parties and taking into account the determinations above, the tribunal orders the Respondents to refund any fees paid by the Applicant within 28 days of the date of this decision.

Andrew Dutton

Name: Tribunal Judge Dutton **Date:** 22nd January 2018

ANNEX - RIGHTS OF APPEAL

1. 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.
2. 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.
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 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.

¹ The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 SI 2013 No 1169

Appendix of relevant legislation

Landlord and Tenant Act 1985

Section 18

- (1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
 - (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
 - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose -
 - (a) "costs" includes overheads, and
 - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
 - (a) only to the extent that they are reasonably incurred, and
 - (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;and the amount payable shall be limited accordingly.
- (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 27A

- (1) An application may be made to a leasehold valuation 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 a leasehold valuation 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.