

9168



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

**Case Reference** : **CAM/00KF/LSC/2013/0057**

**Property** : **47 Sudeley Gardens, Hockley SS5  
4XQ**

**Applicant** : **Sudeley Gardens (Hockley)  
Management Company Limited**

**Representative** : **Mr Simon Purkis Counsel  
Ms Corby PDC Legal, Solicitors**

**Respondent** : **Mr Paul John Stacey**

**Representative** : **Mr Paul Stacey In Person**

**Type of Application** : **Section 27A Landlord and Tenant  
Act 1985 – to determine the amount  
of any service charges payable**  
**Section 158 and Schedule 11  
Commonhold and Leasehold  
Reform Act 2002 – to determine  
the amount of any variable  
administration charges payable**

**Tribunal Members** : **Judge John Hewitt Chairman  
Mr Stephen Moll FRICS  
Mr David Cox JP**

**Date and venue of  
Hearing** : **Tuesday 13 August 2013  
Southend Magistrates Court**

**Date of Decision** : **13 August 2013**

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**DECISION**

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## Decisions of the Tribunal

1. The Tribunal determines that:
  - 1.1 It reports to the Court that the parties have arrived at terms of a compromise settlement, the terms of which are set out in the Schedule below; and
  - 1.2 By consent an order shall be made, and is hereby made, pursuant to section 20C Landlord and Tenant Act 1985 to the effect that none of the costs incurred or to be incurred by the Applicant in connection with the Court proceedings or these proceedings are to be regarded as relevant costs to be taken into account in determining the amount of any service charges payable by the Respondent

## Procedural background

2. On 25 April 2012 the Applicant commenced Court proceedings against the Respondent in Northampton County Court – Claim No. 2YJ59532.

The Applicant claimed:

### Service Charges

01.01.12	On account of the year 2012	£642.70
01.01.12	Reserve Fund	<u>£ 50.00</u>
		<b>£692.70</b>

### Variable Administration Charges

07.02.12	Reminder Fee	£ 15.00
23.02.12	Land Registry Search	£ 18.00
23.02.12	Legal Fee	£180.00
23.02.12	Administration Fee	<u>£ 42.00</u>
		<b>£255.00</b>

### Costs

Court Fee	£ 70.00
Solicitor's costs	£ 70.00
Contractual costs under the lease	Unspecified

3. A defence was filed.
4. By order dated 17 April 2013 and made by District Judge Ashworth sitting at Southend County Court it was ordered that: *"The claim be transferred to the LVT for determination."*
5. Directions were issued on 28 May 2013.
6. By virtue of the Transfer of Tribunal Functions Order 2013 SI 2013 No.1036 the functions of the Leasehold Valuation Tribunal for areas in England were transferred to the First-tier Tribunal (Property Chamber) with effect on 1 July 2013.
7. The proceedings are now subject to The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the Rules), save to the

extent that the Tribunal may dis-apply all or any of the Rules in favour of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003 (the Previous Rules) if it sees fit to do so.

8. The reference came before us for hearing on Tuesday 13 August 2013.

9. The Applicant was represented by Mr Simon Purkis of counsel.

The Respondent attended and represented himself.

10. Following a short adjournment for discussions the parties informed us that they had arrived at a compromise settlement. The terms of settlement were discussed as was the manner in which those terms might be recorded. The terms of settlement were reported to us as being those set out in the Schedule below.

11. The parties were also in agreement that an order pursuant to section 20C of the Act should be made by consent and we have done so.

### **The Schedule**

1. The Respondent shall by 27 August 2013 pay to the Applicant's managing agents, Residential Management Group of RMG House, Essex Road, Hoddesdon EN11 0DR the sum of £692.70 being:

1. The sum of £642.70 payable on account of service charges due for the year 2012 demanded to be payable on 28 January 2012; and
2. The sum of £50.00 contribution to the reserve fund for 2012 demanded to be payable on 28 January 2012.

2. The Applicant withdraws the claim to variable administration charges of £255.00 claimed in the court proceedings made up as to:

Reminder fee	£ 15.00
Land Registry search	£ 18.00
Legal fee	£180.00
Administration fee	<u>£ 42.00</u>
	£255.00

3. Upon payment of the said £692.70 referred to in paragraph 1 above the Applicant shall discontinue the Court proceedings.

4. If the said £692.70 is not paid in accordance with paragraph 1 the Applicant shall be at liberty to apply to the Court to enforce payment.

### **Note**

1. Before leaving this matter we wish to place on record our serious concerns in which the Court proceedings and the proceedings before us have been conducted on the part of the Applicant.
2. We do not know whether the fault lies with the directors of the Applicant, its managing agents, RMG or its solicitors, PDC Legal.
3. The Respondent never disputed his liability to pay the service charges demanded on account for 2012 and the contribution to the reserve fund. He sent a cheque to RMG in payment. It was returned because he had not also paid variable administration charges debited to his account and alleged to be payable by him. The Respondent sent a further cheque to PDC Legal and that too was returned to him for the same reason.
4. PDC Legal commenced Court proceedings. The Respondent claimed defence by tender and repeated his position.
5. At the hearing before us the Applicant was represented by counsel and a senior regional manager with PDC Legal. It appears to us that it was readily conceded by the Applicant that the alleged variable administration charges were not payable by the Respondent as repeatedly alleged by RMG and PDC Legal.
6. Having read the trial bundle and the line of correspondence it seems to us as clear as can be that the concession eventually made by the Applicant should have been made at a very early stage and certainly before the issue of the Court proceedings.
7. For the Applicant to have maintained its untenable position right up to the commencement of the hearing is reprehensible and tantamount to an abuse of process. The limited resources of the Court and of this Tribunal are under strain and in these times of austerity it is unacceptable that a party consumes those resources with a wholly unmeritorious case. Further the Respondent has been a litigant in person throughout and it was most unfair that he should suffer the worry and stress of these proceedings over a prolonged period.

Judge John Hewitt  
13 August 2013