

9047

Case Reference : CHI/00HB/LIS/2013/0054
Property : 8 Trinity Place, 1 Merchants Road, Bristol BS8 4PZ
Applicant : Knightstone Housing Association Limited
Representative : Vikki Cornwall

Respondent : Mr J Craig
Representative : In Person

Type of Application : Application for Determination as to the amount and liability to pay service charges (Section 27A of the Landlord & Tenant Act 1985)

Tribunal Members : Judge A D McC Gregg (Chairman)
M Ayres (Valuer Member)
Date and venue of Hearing : 8 July 2013
7 Queen Square, Bristol BS1 4JE
Date of Decision : 17 July 2013

DECISION OF THE FIRST TIER TRIBUNAL (PROPERTY CHAMBER)

For the reasons set out below the tribunal determines that the service charges set out in the table below are payable in respect of the property known as 8 Trinity Place, 1 Merchants Road, Bristol, BS8 4PZ and that they are payable to the applicant, Knightstone Housing Association Limited.

Service Charge Year	Annual Amount due	Monthly amount due	Weekly amount due
April 2012 to March 2013	£1,062.12	£88.51	£20.37
April 2013 to March 2014	£1,135.80	£94.65	£21.78

REASONS

1 The Application

- 1.1 On the 12 April 2013 the Applicant, Knightstone Housing Association Limited applied to the Tribunal under Section 27a of the Landlord and Tenant Act 1985 (as amended) ("the Act") to determine the liability to pay services charges in respect of 8 Trinity Place, 1 Merchants Road, Bristol ("the Property"). The Applicants sought a determination for each of the years commencing April 2012 to March 2013 and April 2013 to March 2014 and that the service charges that had levied were reasonable and that the respondent Mr Jon Craig is liable to pay them.
- 1.2 The tribunal issued directions on the 17 April 2013 that this matter be dealt with by way of a paper determination on the basis of written representations and documents without a formal hearing. Written representations were received from the Applicant by way of a witness statement (undated) from Vicky Cornwall which accompanied a letter in the Applicant's bundle and which was dated 20 June 2013.
- 1.3 The respondent has not made any representations or provided any written response.

2 The Law

The Statutory provisions primarily relevant to applications of this nature are to be found in sections 18, 19 and 27a of the Act.

- 2.1 Section 18 provides:
 - 1) *In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part 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.*
- 2.2 Section 19 provides:-
 - 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 provision 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 payment, reduction or subsequent charges or otherwise.*
- 2.3 Section 27A provides:-
- 1) *An application may be made to a leasehold valuation tribunal (now, as of 1 July 2013, the First-Tier 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.*

Subsections 2 to 7 of the section 27A are not relevant in this application.

3 The Lease

- 3.1 The Respondent holds the property for the residue of a term of 126 years from 1 January 1987 granted by a lease made in 1992 under the provisions of Part V of the Housing Act 1985. The copy of the lease provided to the Tribunal is not dated. The lease was granted by the Applicant to Helen Schell and reserved a yearly rent of £10.00.
- 3.2 The lease contains the following relevant definition:
 - 1) *"The Buildings" means the property known as Trinity Place aforesaid which is divided into 14 flats and 4 houses of which the flat is one.*
 - 2) *"The Main Structures" means those parts of the building which are not demised as flats.*
 - 3) *"The Communal Areas" means those parts of the buildings and of the estate the use of which is shared by the Leasees of more than one flat.*
- 3.3 The extent of the demised property is set out in the first Schedule to the Lease. It describes the first floor flat known as 8 Trinity Place and it records that it includes (amongst other items) the doors, windows and window frames solely serving the flat.
- 3.4 By clause 3 of the lease, the lessee covenanted to pay the lessor on the 1st January in each year (such payment to be made in advance by 12 equal interim instalments on the first day of each month by bankers standing order or direct debit mandate)... A fair proportion of the costs expenses and payments notified to the Lessee as being the amount:

- 1) *Incurred or charged by the Lessor during the previous year (including a period prior to the grant of this lease).*
- 2) *Incurred or charged by the Lessor during the previous year and any year prior to that previous year the contribution to which by the Lessees or tenants of the Lessor has been extended by the Lessor over a period in excess of one year (including a period prior to the grant of this Lease).*
- 3) *Expected to be incurred or charged by the Lessor during that year.*

Of and including:

- a. *The maintenance, repair, renewal, improvement, upkeep, decoration, cleansing and lighting of the Main Structures and Common Areas.*
- b. *The maintenance repair, renewal, improvement, upkeep and cleansing of all drains, pipes, wires, cables and conduits for the drainage from the supplies of water, gas and electricity to the building and communal areas provided that such drains, pipes, wires, cables and conduits serve at least one flat.*
- c. *The cost of maintenance, repair and replacement of any boundary walls for which the Lessor is responsible.*
- d. *The rates, taxes, assessments and outgoings imposed on the Lessor in respect of the Communal Areas.*
- e. *The insurance premiums payable by the Lessor pursuant to the covenant in that behalf hereinafter contained.*
- f. *Of creating such reasonable reserve against future liabilities as to the Lessor may seem prudent and desirable.*
- g. *Any other sums properly incurred by the Lessor in connection with the main structures and communal areas PROVIDED.....*

3.5 The sixth Schedule to the lease contains covenants by the Applicant:

- 1) *To insure the buildings and communal areas;*
- 2) *To keep the main Structures and Communal Areas in good and substantial repair and condition including the renewal and replacement of all worn or damaged parts;*
- 3) *To decorate the exterior of the buildings and the internal communal areas.*

3.6 The lease was assigned to the Respondent on 15 July 2003.

4 The Inspection

4.1 The Tribunal did not inspect the property.

5 The Determination and the Issues

5.1 In accordance with the Directions in this case the determination was a paper determination and there was no appearance by or on behalf of the Applicant or the Respondents.

- 5.2 The Tribunal had previously received from the Tribunal office a large lever arch file containing copies of:
- 5.2.1 Service charge demands and relevant correspondence for the years in question that had been made to the respondent.
 - 5.2.2 The Witness Statement of Vicki Cornwall, a Home Ownership Officer for the Applicant together with accounts and invoices relating to:
 - a. The cleaning of the premises
 - b. Window cleaning
 - c. Gardening and grounds maintenance
 - d. Day to day repairs/maintenance
 - e. Electricity
 - f. Fire alarm and emergency lighting services
 - g. Repairs and rubbish clearance
 - h. Time clock door entry
 - i. Building sinking fund
 - j. Buildings insurance
 - k. Management costs
 - 5.2.3 The tribunal considered all of these items of expenditure and then went on to consider the service charge calculations themselves.
- 5.3 The Tribunal noted that there were minor differences between the figures referred to in the Claim Form itself together with the supporting Schedule and the consultation letters advising of the service charges dated 1 November 2011 and 12 November 2012.
- 5.4 Whilst these were small differences in the figures they were de minimis and the Tribunal's finding is based on the figures set out in the application itself and the accompanying schedule.

6 Conclusion

Having carefully considered all the documentary evidence provided to the tribunal the Tribunal is satisfied that the Service Charges raised by the Applicant are reasonable and that they are payable by the Respondent.

The Tribunal determines that the Service Charges set out in the table below are payable in respect of the property known as 8 Trinity Place, 1 Merchants Road, Bristol BS8 4PZ and that they are payable to the Applicant Knightstone Housing Association Limited.

Service Charge Year	Annual Amount due	Monthly amount due	Weekly amount due
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7 Appeals

- 7.1 A person wishing to appeal against this decision must seek permission to do so by making written application to the First-Tier Tribunal at the Regional office which has been dealing with the case.
- 7.2 The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
- 7.3 If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to admit the application for permission to appeal.
- 7.4 The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result which the person is seeking.

17 July 2013