

12393



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

**Case reference** : **LON/00AP/LSC/2017/0165**

**Property** : **Flat 40 Chedworth House, West  
Green Road, London N15 5EH**

**Applicant** : **London Borough of Haringey**

**Respondent** : **Mr Kwaku Bawuah Asara-Konadu**

**Type of application** : **S27A Landlord and Tenant Act 1985**

**Tribunal member(s)** : **Judge Shaw  
Mrs Sarah Redmond, MRICS**

**Date and venue of  
determination** : **15<sup>th</sup> August 2017 at 10 Alfred Place,  
London WC1E 7LR**

**Date of decision** : **15<sup>th</sup> August 2017**

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**DECISION**

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### **Decision of the Tribunal**

- (1) The Tribunal determines that the Respondent is liable to pay service charges in the sum of £1,018.61.
- (2) The Tribunal makes the determinations as set out under the various headings in this decision

### **The application**

This case has been transferred to the Tribunal from the Edmonton County Court by Order dated 19<sup>th</sup> April 2017, for determination. In the County Court the Claimant claimed the sum of £1,328.16 together with certain costs by way of arrears of service charge. That sum had been reduced by virtue of certain payments by the Defendant and the balance outstanding as at the date of Directions given by this Tribunal on 27<sup>th</sup> June 2017 was £1,018.61. It falls to this Tribunal to determine whether that sum is reasonable and payable by the Defendant to the Claimant, who will be referred to hereafter in this Decision as the Respondent and the Applicant.

### **Introduction**

- (1) As mentioned, this case involves an allegation of an outstanding balance of service charges in the sum of £1,018.61 due from the Respondent to the Applicant.
- (2) Directions were given in this case on 15<sup>th</sup> June 2017. Part of those Directions required the parties to prepare respective bundles of documents. The parties were invited to indicate whether they wished a hearing (as opposed to a paper determination) to take place. No such request for a hearing was received. Accordingly the Tribunal is making its determination in this matter on the basis of the papers supplied by both parties. Both the Applicant and the Respondent have supplied helpful statements of case, together with accompanying documents.
- (3) The background to the matter is helpfully set out by the Applicant in the witness statement of Michael Bester, Leasehold Services Manager of the Applicant, dated 18<sup>th</sup> June 2017 and appearing at page 21 of the Applicant's

bundle. This statement of case sets out the relevant provisions of the Respondent's lease and has attached to it the relevant accounting documents. The Respondent's statement of case (or witness statement) appears at page 38 of that bundle and has various documents attached. Mr Bester has replied to the Respondent's statement in a further witness statement made on 7<sup>th</sup> August 2017 at page 133 in the bundle.

### **Summary of the Respondent's Case**

(4) The Respondent in his witness statement makes various complaints about the conduct of the Applicant and those complaints have been distilled, so far as the Tribunal can ascertain, under the headings in the Applicant's second witness statement at page 133 in the bundle. It is perhaps unfortunate both for the Tribunal and the Respondent himself that he has not complied with the Directions of the Tribunal given on 15<sup>th</sup> June 2017, to complete a Tenant's Schedule. Accordingly it has not been possible for the Tribunal easily to identify the specific service charges contested by the Respondent in the two relevant service charge years, which are 2015/16 and 2016/17. It is proposed by the Tribunal to deal with such matters as have been raised in the order identified in the Applicant's second witness statement.

### **Allegations of the Respondent together with Determinations of the Tribunal**

(i) The first matter is a complaint that the Applicant has failed to supply the supporting invoices and receipts in respect of the service charges claimed. However, the requirement in the Lease is to provide a Certificate of Expenditure each year which has in fact always taken place. There is a statutory obligation under S 22 of the Landlord and Tenant Act 1985 to provide inspection facilities upon request but there is no specific request to inspect such documents, although there is a request for summaries of the service charges paid. This complaint is therefore not made out.

(ii) The second matter is a complaint that the Applicant failed to allow the Respondent to pay over a period of 12 months but instead commenced proceedings thereby increasing costs. However, correspondence shows (see letter

of 24<sup>th</sup> February 2015) that although a 10 month instalment plan is normal, this would be extended to 12 months by the Applicant provided £161.50 per month was paid by the Respondent. He failed to comply with this plan. When he complained again on 2<sup>nd</sup> June 2016 he was offered a further direct debit plan over 10 months in respect of the two years. In the event the Respondent paid spasmodically a separate sum, less than the plan offered, of £100 per month as a result of which a shortfall built up. It seems to the Tribunal in the circumstances that it was not unreasonable for the Applicant to commence proceedings. Credit is to be given to the Respondent nonetheless for attempting to discharge the balance but for the reasons given his complaint is not made out.

(iii) The third matter is a complaint that the Applicant has augmented the costs by starting proceedings. Together with the matters mentioned above, the evidence shows there were two reminders before action on 20<sup>th</sup> October 2016 and 20<sup>th</sup> January 2017, and it was not until 27<sup>th</sup> January 2017 that proceedings were instituted. The Tribunal does not consider that this was unreasonable and this complaint is rejected.

(iv) The Respondent complains that the Applicant failed to repair timeously a some water penetration into his flat and consequential damage.

There appears to have been a delay by the Applicant in arranging for inspection, and then when inspection did take place there was a further delay until October 2016 from the Applicant's Major Works team. However, the Respondent did not help himself in that, according to the Applicant's letter at page 141 of the bundle, the Applicant endeavoured to repair the leakage but were not granted access for this purpose by the Respondent. In any event, although the complaint has been made by the Respondent, no quantification of such loss as he may have suffered has been demonstrated by him and on balance this complaint is also rejected by the Tribunal. A telephone number has been supplied by the Applicant at page 141 in their letter of 7<sup>th</sup> March 2017 which the Respondent may wish to pursue.

(v) There is a generalised complaint by the Respondent as to the alleged poor quality of the cleaning of the common parts at the property. The evidence of the Applicant is to the effect that cleaning takes place twice a week on Mondays and Fridays and there is a limit as to how much they can do to combat the

consequences of antisocial behaviour. It is difficult for the Tribunal to make a finding in respect of this matter without more detail in the form of specific allegations and perhaps photographs from the Respondent who makes the complaint. It is not supported by any evidence from other occupiers on the estate. Once again the Applicant has investigated this allegation (together with allegations of persistent drug abuse in the common parts) and is satisfied that as much as possible is already being done. The Applicant has offered to meet the Respondent in order to discover evidence of particular allegations but there seems to have been no progress in this regard. The Tribunal is not satisfied on the evidence before it that the Respondent has made out his case for any particular deduction from the balance due in this regard.

### **Conclusion and the finding of the Tribunal**

(5) The Respondent in this case has made a number of generalised allegations against the Applicant, but the Tribunal is not satisfied for the reasons indicated above that any of these allegations result in a diminution of the balance outstanding to the Applicant. The matters of complaint have been investigated by the Applicant in such a way that the Tribunal concludes that the balance of £1,018.61 is both reasonable and payable by the Respondent and this is the finding of the Tribunal.

**JUDGE SHAW**

Dated: 15<sup>th</sup> August 2017

## **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).