



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

Case reference : **LON/00AZ/LSC/2016/0419**

Property : **Flat B, 69 Cranfield Road, London
SE4 1TP**

Applicant : **The Mayor and Burgesses of the
London Borough of Lewisham**

Representative : **Mr J Browne of counsel**

Respondent : **Ms M Robinson**

Representative : **In person**

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

Tribunal members : **Mr S Brilliant
Mr K Ridgeway MRICS**

**Date and venue of
hearing** : **2 March 2017
10 Alfred Place, London WC1E 7LR**

Date of decision : **8 May 2017**

the Court made an order that if the Respondent did not pay a fee of £455.00 by 18 July 2016 the counterclaim would be automatically struck out. We are satisfied from what we were told by Mr Browne that the counterclaim has been automatically struck out. Accordingly, we do not have jurisdiction to consider any of the matters raised in it.

5. By an order made by District Judge Brett in the County Court at Bromley on 31 October 2016 the proceedings were transferred to the tribunal.
6. At a case management conference held on 12 December 2016, the Respondent was directed to set out in respect of each service charge year each item in dispute, the amount in dispute, the reason why the amount was disputed, and the amount, if any, the Respondent would pay for that item. The Applicant was directed to respond to that schedule. The completed schedules are at pages 254-269 of the hearing bundle.

The hearing

7. The Applicant was represented by Mr James Browne of counsel. The Respondent appeared in person.
8. The Applicant provided a witness statement from Ms Simpson, who is employed as a leasehold manager by the Applicant's managing agent, Pinnacle PSG/Regenter B3 ("the managing agent"). She attended the hearing and gave oral evidence.

The background

9. The property which is the subject of this application ("the flat") is on the ground floor of a 2 storey detached house ("the house"). The house is adjacent to a 4 storey purpose built block of flats, also owned by the Applicant.
10. The flat is part of the Applicant's Brockley Estate ("the estate"). We are told that the estate consists of 1,830 properties, of which 1,330 are tenanted and 550 held on long leases acquired under the right to buy provisions. In 2007, the managing agent took over the management of the estate under a PFI project.
11. 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.

The lease

hearing bundle. This states that the notice is being given by:

London Borough of Lewisham, Town Hall, Catford, London SE6 4RX.

21. Section 47 of the Landlord and Tenant Act 1987, where relevant provides:

(1) *Where any written demand is given to a tenant of premises to which this Part applies, the demand must contain the following information, namely—*

(a) *the name and address of the landlord, and*

(b) *if that address is not in England and Wales, an address in England and Wales at which notices (including notices in proceedings) may be served on the landlord by the tenant.*

(2) *Where—*

(a) *a tenant of any such premises is given such a demand,*
but

(b) *it does not contain any information required to be contained in it by virtue of subsection (1),*

then ... any part of the amount demanded which consists of a service charge (“the relevant amount”) shall be treated for all purposes as not being due from the tenant to the landlord at any time before that information is furnished by the landlord by notice given to the tenant.

(4) *In this section “demand” means a demand for rent or other sums payable to the landlord under the terms of the tenancy.*

22. The Respondent contends that the service charge demands do not comply with s.47. Mr Browne submitted to us that the service charge demands do so comply. He said it is not necessary to set out the full formal name of the Applicant. It is permissible to give the address of the managing agent, where in circumstances such as this the landlord is a local authority. He accepted there was authority to the contrary where the landlord was an individual.

23. In Woodfall (paragraph 7.067) it is stated quite broadly that:

A demand which contains the name of the landlord and the address of its agent is not sufficient.

27. On 14 March 27 the Applicant's solicitors sent a letter to the Respondent giving her the correct name and address of the Applicant. In Tedla v Cameret Court Residents Association Ltd [2015] UKUT 0221 [38], the Deputy President of the Lands Chamber, Martin Rodger QC, said:

It is not necessary for all of the previous service charge demands to be re-issued. From the time at which such a notice has been given the service charges will be treated for all purposes as being due from the appellant to the respondent.

28. Woodfall also states:

A failure to comply with the statutory requirements does not deprive the First Tier Tribunal of its jurisdiction to make a determination in relation to service charges under s.27A of the Landlord and Tenant Act 1985.

29. The authority for this proposition is the decision of HH Judge Bridge in Cannon v 38 Lambs Conduit LLP [2016] UKUT 0371 (LC).

30. These proceedings have been transferred to the tribunal so that we can exercise our jurisdiction under section 27A. Accordingly, we do have jurisdiction to consider the service charges in dispute before us, notwithstanding the failure by the Applicant at the time of the hearing to have complied with section 47. It is to those service charges that we now turn.

Summary of the service charges

31. In the schedule the parties were directed to prepare the service charges are divided into 3 categories, although not every category arises in every year:

- (1) Management charges
- (2) Insurance.
- (3) Repairs.

Management charges

32. We were told that there were 3 elements in the management charge. First, leasehold management. Secondly, residential involvement. Thirdly, customer services.
33. Leasehold management includes preparing and sending out service

increased for the service charge year 1 April 2008 - 31 March 2009, so we will only allow £45.00 for that year. Otherwise, the amounts demanded will be allowed.

40. In the service charge years ending 31 March 2012, 31 March 2013, 31 March 2014, 31 March 2015, 31 March 2016 and 31 March 2017, the management charge was separated into each of the 3 elements.
41. In each of the years we allow the amounts demanded for leasehold management and customer services. We are satisfied that these are reasonable amounts.
42. Despite his most attractive submissions, we do not accept Mr Browne's argument that the costs of the residential involvement element of the charges are recoverable under the lease. We accept it is a laudable aim to try and foster good community relations, that there is a risk of the services not being provided so fully if they are not recoverable under the service charge and that they are desirable, if not strictly necessary, services. However, these are not matters which come within the obligations of the Applicant under the lease.
43. Accordingly, we allow the following amounts in respect of management charges:

1 April 2007 - 31 March 2008	£45.00
1 April 2008 - 31 March 2009	£45.00
1 April 2009 - 31 March 2010	£45.00
1 April 2010 - 31 March 2011	£40.00
1 April 2011 - 31 March 2012	£62.16
1 April 2012 - 31 March 2013	£62.67
1 April 2013 - 31 March 2014	£44.39
1 April 2014 - 31 March 2015	£69.81
1 April 2015 - 31 March 2016	£70.01
1 April 2016 - 31 March 2017	£69.81

increased scope of works and miscellaneous costs applied to the works to the soffit and rainwater pipe, rather than to the windows.

53. Accordingly, in respect of these works we will allow the following:

Tower costs	£250.00
Facia and soffit boards	£130.00
Rainwater goods	£82.50
Subtotal	£462.50
Professional fees @ 24%	£111.00
Total	£573.50
Management fee @ 10%	£57.35
Total	£630.85

Conclusion

54. The amount allowed in respect of each of the relevant service charge years is set out at the beginning of this decision.
55. We consider that there should be no order as to costs between the parties.
56. We consider it appropriate in all the circumstances to make an order under section 20C of the Landlord and Tenant Act 1985 that one half of the cost of these proceedings are not to be recovered through the service charge.

Name: Simon Brilliant

Date: 8 May 2017

- (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 20

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
- (a) complied with in relation to the works or agreement, or
 - (b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—

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.