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

Case Reference : **MAN/00CB/LSC/2016/0072**

Property : **10 Barnston Towers Close, Heswell, Wirral
CH60 2UJ**

Applicant : **Oakwood Builders Ltd.**

Respondent : **MSK Enterprise Ltd.
Emma Clarke
Lindsey Court
Jason Mitchell**

**Type of
Application** : **Under s.27A of the Landlord and Tenant Act
1985**

Tribunal Members : **Judge P Forster
Mr J Platt FRICS**

Date of Decision : **6 February 2017**

DECISION

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Decision

1. The application is dismissed.

Background

2. This is an application under s.27A of the Landlord and Tenant Act 1985 for the Tribunal to determine the liability to pay and reasonableness of services charges for the years 2012/13 and 2013/14 in respect of Barnston Towers Close, Heswall, Wirral, CH60 2UJ.
3. The Applicant is Oakwood Builders Ltd. a company registered under number 02882407 and whose registered office address is Whitfield Buildings 192-200 Pensby Road, Heswall, Wirral, CH60 7RJ. The application has been made on behalf of the Applicant by one of its directors, David Kershaw.
4. The Respondents are respectively, MSK Enterprise Ltd. the leasehold owner of Flat 1, 10 Barnston Towers Close; Emma Clarke and Lindsey Court the leasehold owner of Flat 3 and Jason Mitchell the leasehold owner of Flat 4.
5. The Applicant has produced a copy of a Lease dated 3 September 1976 in respect of Flat 1, 10 Barnston Towers and made between Christopher Churchill as the Vendor and Barnston Towers Management Company Ltd. as “the Company” and Angela Rona Margareta Hobson as the Purchaser. The Lease is for a term of 999 years. MSK Enterprise Ltd. is the successor in title to the Purchaser. It is not in dispute that the leases in respect of Flats 3 and 4 are in the same terms as the lease that has been produced.
6. Under clause 2 of the Lease the Purchaser covenanted with the Vendor and the Company to observe and perform the obligations set out in the Seventh Schedule. Under paragraph 15 of the Seventh Schedule the Purchaser covenanted “*to keep the Company indemnified from and against one fifth of all costs charges and expenses incurred by the Company in carrying out its obligations under the Eighth Schedule and in respect of the management and general expenses of the Company*”.
7. The Eighth Schedule sets out the Company’s obligations under the Lease. The sums claimed by the Applicant in these proceedings appear to be costs and charges incurred in performance of those obligations.
8. It appeared from the Lease that the Company was the only party entitled to recover the relevant costs and charges from the Respondents. Upon enquiry, it was discovered that Barnston Towers Management Ltd. was dissolved on 16 June 2015.
9. The Applicant has produced several invoices to support its claim but those invoices are addressed to Barnston Towers Management Ltd. The Applicant has not explained why it is entitled to claim those sums from the Respondents.

10. The legal basis of the Applicant's claim was not apparent from the Application or from the Applicant's statement of case or from the documents produced by the Applicant in support of its claim. On 5 January 2017, the Tribunal wrote to the Applicant to point out that under the terms of the Lease only Barnston Towers Management Ltd. appears to have the right to recover expenses from the Respondents. The Company no longer exists because it was dissolved on 16 June 2015. The Applicant was asked to tell the Tribunal on what legal basis it made its claim.
11. David Kershaw replied on behalf of the Applicant. As well as being a director of the Applicant he was also a director of Barnston Towers Management Ltd. Mr Kershaw produced a copy of a letter dated 16 January 2017 from the Government Legal Department. It noted that it was intended to make an application under s.1024 of the Companies Act 2006 for administrative restoration of Barnston Towers Management Ltd. to the Register of Companies. The Treasury Solicitor waived any interest in the assets of the Company as bona vacantia on behalf of the Crown.
12. Mr Kershaw's response did not answer or address the question about the legal basis of the Applicant's claim.
13. The evidence before the Tribunal does not establish the Applicant's standing nor the legal basis on which it has made its claim against the Respondents. The evidence does not support the Applicant's case and the Tribunal must therefore dismiss the application.