



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

Case reference : **LON/00AG/LSC/2019/0427 P**

Property : **70A Bedford Court Mansions, Bedford Avenue, London WC1B 3AD**

Applicant : **Bedford Court Mansions Limited**

Representative : **Seddon Law LLP solicitors for the applicant**

Respondent : **Diana Sinyukova (1)
Mr Andrey Sinyukova (2)
Mrs Radmila Sinyukova (3)**

Representative : **For Mr Sinyukova LCL Solicitors**

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

Tribunal member : **Tribunal Judge Dutton**

Date of decision : **16th July 2020**

DECISION

Decisions of the tribunal

This has been a remote determination on the papers, which has not been objected to by the parties. A face to face hearing was not held because it was not practicable and all issues could be determined on papers before me as was requested by the applicant in the application. The documents that I was referred to are in a digital bundle prepared for the applicant of some 177 pages. The respondents played no real part in the proceedings save as set out below.

The Tribunal determines that the sum of £6,359.65 is due and owing in respect of the service charges for the years in dispute

The application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) as to the amount of service charges payable by the Respondents in respect of the service charge years ending September 2018, 2019 and 2020, the latter being estimated charges, the first two being budget figures.
2. The relevant legal provisions are set out in the Appendix to this decision.

The Determination

3. The Applicant was represented by Seddon Law LLP solicitors. The bundle that they had compiled contained a copy of the application, the tribunal directions dated 7th January 2020 (the Directions), a copy of the register of title, the lease, correspondence between the parties and with the tribunal and an up to date statement of account. The Respondents took no real part in the proceedings, failing to comply with the directions and filing no evidence to justify any challenge to the service charges claimed.

The background

4. The Applicant is a tenant owned freehold company. The respondents are joint owners of 70A Bedford Court Mansions, Bedford Road, London WC1B 3AD (the Property). I understand that Ms Sinyukova is the daughter of Mr Andrey and Mrs Radmila Sinyukova. It seems that none of the respondents live in the UK. Ms Sinyukova lives in the USA, Mr Sinyukova lives in New Zealand and Mrs Sinyukova lives in Russia. The Property, which is the subject of this application is a flat in a mansion block containing in excess of 100 flats and is held on a long lease of 999 years from 29th September 1974.

5. Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate given the issues in dispute, the more so given the current pandemic.
6. The Respondents' lease of the Property requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease and will be referred to below, where appropriate.
7. A Case Management hearing was hold on 7th January 2020 with Ms Dowding from Seddons and Mr Weatherley Counsel, representing Ms Sinyukova. It was pointed out to the parties that although the application is made under s27A of the Landlord and Tenant Act 1985 the narrative appears to be seeking an order under s168(4) of the Commonhold and Leasehold Reform Act 2002, although in fact refers to a non-existent s168(8). As was pointed out to the parties by Judge Latham this application would seem to be contrary to s169(7) of the 2002 Act. I have dealt with this matter on the basis that it is an application under s27A of the Act. It would seem that s81 of the Housing Act 1996 may be relevant.
8. The Directions provided for a hearing on 1st April 2020. As a result of the Covid-19 pandemic it has not been possible to hold a hearing and the matter has been considered by me on the papers before me.

The issues

- (i) The issues relate to the non-payment of budgeted service charges for the years ending September 2017 and 2018 and an estimated charge for the September 2019 to March 2020.
- (ii) Full details of the demands together with the budget for the two years ending September 2018 and 2019 and the estimate for year ending September 2020 were sent to the three respondents by email and letter dated 21st January 2020.
- (iii) Mr Sinyukova completed the form attach ed to the Directions indicating he accepted his one third share of the liability, set at £9,690.65. He paid the sum of £3,331 on 27th February 2020. The latest statement issued by Myhill Newman the property managers confirms the sum presently due and owing to be £6,359.65, the payment from Mr Sinyukova being reflected in that total.
- (iv) Ms Sinyukova has been in contact with the tribunal and with the applicant's solicitors indicating a wish to make a payment of £2,000 on account and to discharge the balance from the sale proceeds of the flat. This was in October 2019 but I am not

advised that any payment was made, nor does there appear to have been any progress on the sale of the Property.

The tribunal's decision

9. It would appear that the applicant has complied with the obligations imposed upon it to provide suitable accounting data in accordance with Clause 4 of the lease.
10. I remind myself that this is a tenant owned freehold company. I anticipate that the demands have been the subject of scrutiny by the directors of the applicant, although there is no witness statement from anyone on behalf of the applicant.
11. In the absence of any meaningful response from the respondents, save of course the payment by Mr Sinyukova, I am unaware of the reasons for the non-payment of these demands. Ms Sinyukova, who I understand lets the Property and receives the rental income, does not appear to dispute that the sums are due and owing. I have nothing from Mrs Radmila Sinyukova. In those circumstances and in the absence of any cogent reason for non-payment I find that the sums demanded, now standing at £6,359.65 are due and owing and should be paid within 28

Name: Tribunal Judge Dutton **Date:** 16th July 2020

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).

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 18

- (1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of 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.

Section 19

- (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 provisions 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 repayment, reduction or subsequent charges or otherwise.

Section 27A

- (1) An application may be made to the appropriate 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.
- (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.