



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(LEASEHOLD VALUATION)**

Case Reference : **MAN/00DA/LSC/2020/0027**

Property : **Flat 3, 44 Armley Ridge Road, Leeds LS12 3NP**

Applicant : **RG Reversions 2014 Ltd**
Represented by : **Rebecca Ackerley of counsel**

Respondent : **Nosober Latif**

Type of Application : **Service Charge**

Tribunal : **Tribunal Judge S Greenan**
Tribunal Member S Kendall

Venue of Hearing : **Remote hearing**

Date of Hearing : **22 April 2021**

Date of Decision : **20 July 2021**

DECISION

1. In this case the Tribunal is dealing with a dispute about service charges payable in respect of a property known as Flat 3, Armley Ridge Road.
2. This case was referred to the Tribunal by the County Court.
3. RG Reversions 2014 Limited began proceedings against Nosober Latif in the County Court in which it claimed £4,483.90 (exclusive of costs) in respect of outstanding service charges, rent, administration charges, interest and fees.
4. A default judgment was entered on 31.12.18. That was set aside on 25.2.19 by consent.
5. On 25.3.19 Ms Latif filed an acknowledgment of service indicating that she intended to defend part of the claim: she accepted that £1950.28 was owing. In a Defence filed on the same date she accepted liability for ground rent but queried the level of service charges. She also set out her own difficult personal circumstances which had caused her to have difficulty paying the sums which she accepted were due.
6. On 28.6.20 the Claimant filed a Reply to the Defence.
7. On 31.10.19 the claim came before DDJ Nossiter at the County Court at Leeds. The claim was referred to the First Tier Tribunal (Property Chamber) “for determination of the issue in respect of the Claimant’s service charge in respect of 2018”. It was recorded in the same order that Ms Latif had agreed that the service charge due for 2017 was £743.41.
8. The court was made aware by Ms Latif that it was believed that there was a case before the Tribunal in which the leaseholder of Flats 1 and 2 in the same property was also challenging service charges. Ms Latif undertook to provide details of that case to the other side, and the Tribunal, which she did.
9. The Tribunal’s role in this case is therefore limited to dealing with the service charge for 2018.
10. The referral was received by the Tribunal and standard directions were given on 17.11.20.
11. The case was subsequently listed for hearing on 22.4.21. This hearing was arranged to take place remotely, and without an inspection, because of the measures in place as a result of the global pandemic.
12. In this decision RG Reversions 2014 Ltd, if not referred to by name, are referred to as the Applicant. Ms Latif, if not referred to by name, is referred to as the Respondent.

The hearing

13. This case was heard on the same day as the case relating to Flats 1 and 2. Ms Latif and the leasehold owner of Flats 1 and 2, Mr Coleman, agreed to the case proceeding in this way. Ms Latif missed the start of the hearing in relation to Flats 1 and 2 because of a connection issue, but was present for most of the hearing and the Tribunal explained to her what had been discussed in her absence. Mr Coleman was present throughout the hearing.
14. Ms Latif represented herself.
15. The Applicant was represented by Ms Ackerley of counsel. Also present was Ms Stanway, the Applicant's solicitor, and Ms Walker, a witness whose evidence had been served by the Applicant.
16. In the absence of an inspection the Tribunal viewed the exterior of the property on Google Maps/Streetview. The Tribunal is familiar with the area where the property is situated.

The lease

17. By a lease made on 4.8.05 between Your Homes Limited, Armley Ridge Management Company Limited and Nosober Jumma (now Latif) Flat 3 was demised to Ms Latif for a term of 99 years.
18. Clause 1 of the lease provides as follow:
"The Landlord HEREBY DEMISES WITH FULL TITLE GUARANTEE unto the Tenant the Demised Premises...TO HOLD the same UNTO the Tenant for a term of 99 years ... YEILDING [sic] AND PAYING therefor unto the Landord as rent two hundred pounds... for the first 25 years of the Term... subject to the covenants of the part of the Tenant..."
19. Clause 2.1 of the lease provides:
"The Tenant HEREBY COVENANTS with the Landlord and the Management Company and with other tenants of the Flats and their successors in title that the Tenant will at all times during the said Term perform and observe the provisions and stipulations set out in Schedule 4... and... pay the Service Charge in accordance with the provisions of clause 5 [and] ... pay the Management Charge in accordance with the provisions of paragraph 2 of Schedule 4..[and] to pay to the Landlord on demand interest accruing in respect of any of the sums due from the Tenant to the Landlord under this Lease (whether or not lawfully demanded) which remain unpaid more than 7 days after become due..."
20. Clause 5.4.1 provides:
"The Tenant covenants with the Landlord that on 2 January in each year of the Term the Tenant will pay the Landlord such sum in advance and on account of the Service Charge for the Financial Year then current as the Landlord may from time to time specify as being in its absolute discretion a fair and reasonable assessment of the likely Service Charge for that particular Financial Year the first advance payment of which will be made on the date of this Lease".

21. In addition the lease provides in paragraph 1 of Schedule 4 a covenant by the tenant to “pay the Service Charge hereby reserved at the times and in the manner aforesaid and to pay the Insurance Rent on demand”.
22. Schedule 4 paragraph 2.2 provides that the management charge may be “estimated by the management Company and the Landlord or their respective duly authorised agents in accordance with clause 6.3 whose decision shall be final as soon as practicable after the beginning of each year of the Term and the Tenant shall pay the estimated Management Charge Contribution in two equal half yearly instalments..”
23. Paragraph 2.4 of Schedule 4 provides for the tenant to be given credit if the actual management charges are less than the estimated charges.
24. Schedule 4 paragraph 4 contains the following covenant by the tenant:
“To pay to the landlord all costs charges and expenses (including legal costs and fees payable to a surveyor) which may be incurred by the landlord in connection with the recovery of arrears of rent or for he purposes of or incidental to the preparation and service of any notice or proceedings under Section 146 and 147 of the Law of Property Act 1925 notwithstanding that forfeiture may be avoided otherwise than by relief granted by the Court”.
25. The landlord covenants:
 - a. Subject to the Insurance Rent being paid, to keep the property insured;
 - b. Subject to the service charge being paid, to keep the roof, foundation, structure and exterior of the building in good repair and condition.
26. Clause 6 of the Lease contains a covenant on the part of the Management Company to “provide the management Services Subject to payment by the Tenant of the Management Charge when due...” By Part 1 of Schedule 6, the Management Services include the provisions, replacement, renewal, repair and maintenance and cleaning of the common parts, water and sewerage, lighting and heating of the common parts, fire fighting equipment, decorating and furnishing of the common parts, cleaning the exterior windows, and any other amenities deemed reasonable or necessary by the Management Company.
27. R G Reversions Ltd became the registered proprietor of the freehold of 44 Armley Ridge Road on 15.10.14.
28. Armley Ridge Management Company Limited became insolvent and was dissolved on 3.4.07. Pursuant to the lease the lessor became responsible for providing management services. It appointed Inspired Property Management Ltd (“IPM”) as its professional managing agent to provide services and to collect the service charge.
29. Another company, also appointed by the lessor, collects the ground rent: that is Pier Management Ltd.

The law

30. The following provisions of the Landlord and Tenant Act 1985 apply:

18 Meaning of “service charge” and “relevant costs”.

- (1) *In the following provisions of this Act “service charge” means an amount payable by a tenant of a [F24dwelling] 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.*

19 Limitation of service charges: reasonableness.

- (1) *Relevant costs shall be considered 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 repayment, reduction or subsequent charges or otherwise.*

27 A Liability to pay service charges: jurisdiction

- (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.*
- (6) *An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—*
- (a) *in a particular manner, or*
 - (b) *on particular evidence, of any question which may be the subject of an application under subsection (1) or (3).*
- (7) *The jurisdiction conferred on the appropriate tribunal in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter.*

The property

31. 44 Armley Ridge Road is a four-storey terraced house of traditional construction probably built in the late nineteenth or early twentieth century. It has been converted into three separate dwellings. The semi-basement comprises flat 1. Flat 2 occupies the first floor. Flat 3 occupies the second and third floors. Flat 1 has a separate entrance and shares no common parts with flats 2 and 3. Flats 2 and 3 have a shared hallway and staircase.

32. The property is in the Armley area of Leeds, close to the A647 Stanningley Road.

The Applicant's case

33. The Applicant asserts that:
- a. The Service Charge and Management Charge were demanded in accordance with the lease;
 - b. The demands were served at the Respondent's last know address;
 - c. The apportionment of the Service Charge equally between all three flats and the division of the Management Charge between Flats 2 and 3 is fair and reasonable;
 - d. The Applicant has disclosed the invoices and documents underlying the Service Charge and Management Charge and all items are properly included and are reasonable.

The Respondent's case

34. Although Flat 3 was purchased in 2005 in her name, the driving force behind the purchase was her then husband, and in reality she had no dealings with the property between 2005 and 2017.
35. During her marriage, she suffered domestic abuse, including financial abuse.
36. She used an agent to manage the flat on her behalf. In February 2018 her tenant departed, leaving the flat in a state of disrepair. She felt that the common parts and the exterior of 44 Armley Ridge Road were also in poor condition.
37. She does not accept that any works have been undertaken to the common areas except for the removal of accumulated rubbish on three occasions.
38. On 5.3.18 she received a demand for ground rent from Pier Management Ltd. She write to them about her personal difficulties. She tried to make an arrangement with them to pay outstanding ground rent but found them difficult to deal with.
39. In April 2018 she carried out works at the property herself.
40. She became aware that in 2015 unpaid service charges had been added to the mortgage balance following negotiations between the Applicant's solicitor and the mortgage company. She did not know anything about this at the time.
41. She believes that, even after separation, some correspondence in relation to the property was intercepted by her ex-husband and did not reach her.

42. She does not regard the level of services being provided from 2019 onwards as reasonable. She feels that there is a lack of openness and transparency in the way the service charge and management charge are being handled.
43. Ms Latif explained to the Tribunal that she had to carry out works to the property in order to put it in a suitable condition for letting. Her agent told her that it could not be let unless work was done.
44. She accepted that the service charge was not paid in 2017: this was conceded in the County Court proceedings and therefore was not referred to the Tribunal.
45. She regarded the management fee as excessive for what in her view is a “run-down” property in Armley. She also objected to the Applicant’s practice of entering into repeated contracts with IPM for 1 year less 1 day, which she regarded as an attempt to avoid the consultation requirements in relation to long-term agreements.
46. Ms Latif had prepared a Scott Schedule indicating what items were in dispute.
47. The Respondent estimated that she had spent £367 on works in the communal areas. She agreed that Mr Coleman, as owner of Flat 2, should have paid half of that figure.
48. The Respondent told the Tribunal that she had reported the work which in her view needed doing to Pier Management Ltd. She had not reported it to IPM. She was confused about with whom she should be corresponding.

Findings

49. The role of the Tribunal, where a case has been transferred to it by the County Court, is limited to the issues which have been transferred for determination: *Holding and Management (Solitaire) Ltd v Miller* [2019] UKUT 402 (LC). In this case all which has been transferred is “the issue in respect of the Claimant’s service charge in respect of 2018” and the Tribunal’s jurisdiction is confined to that issue.
50. On 13.3.18 IPM sent the Respondent a Statement of Account which included the sum of £1,766.67 as yearly service charge in advance for the year commencing 1.1.18. That figure was subsequently adjusted at the year end by £420.83, reducing the annual service charge to £1345.84.
51. The Applicant divides the service charge equally between the three flats. The management charge is divided equally between Flats 2 and 3. This approach is adopted because, in relation to the service charge, expenditure relates principally to the maintenance of the structural and exterior parts of the building, from which all three flats benefit. The management charge covers the expenditure incurred in connection with the maintenance of the internal common parts. Only Flats 2 and 3 have access to the internal common parts.

52. It is the view of the Tribunal that the division of the service charge and the management charge on this basis is practical and reasonable.
53. The service charge demands were sent to Ms Latif at her last-known address. She was still living at that address when she completed the acknowledgment of service form for the County Court on 19.4.19. It is not disputed that the demands were sent to the correct address.
54. In her Scott Schedule the Respondent had indicated which items of the 2018 service charge were in dispute. These are dealt with individually below.
55. Management fees
- The Applicant claims £670.08. The Respondent disputes the whole amount. The monthly fee charged by IPM is £55.84. The Tribunal, using its own knowledge and experience of management charges, does not regard this as an excessive or unusual charge for a property of this type.
56. The Tribunal notes the Respondent's comments in relation to the nature of the agreement between the Applicant and IPM. The Applicant's interpretation of the legal position is correct.
57. Repairs
- The estimated cost of repairs was £500 with a claimed figure of £595.54. The Respondent submitted that this amount should be reduced.
58. The Respondent is critical of the general maintenance of the structure and exterior of the property and of the internal common parts. The Respondent does not challenge that the repairs which the Applicant has charged for have in fact been carried out. They are evidenced by detailed invoices. Her case is that the works were insufficient, and more should have been done.
59. This would not have the effect of reducing the repair costs. Indeed, it would tend to increase it.
60. The Respondent has provided details of the work which she has paid for. On consideration of that material it appears that most of the work which she funded in the relevant period was internal work in Flat 3. The work is set out in an email from her agent, SB Living, beginning at 378 in the Trial Bundle. The work is as would be expected after a tenant leaves a residential property. The items which do not appear to be internal work to Flat 3 are: some cleaning to the communal areas; re-fixing an electrical box on an external wall; some painting and filling to the walls of the communal hallway. Rubbish also needed to be cleared from the front and back gardens.

61. Photographs (385 and 386) show some wear and tear to the decoration of the communal staircase and the carpet needs cleaning. They were taken in 2020 and do not assist in determining the state of the property in 2018.
62. If these works had been carried out, further amounts would have been added to the service charge.
63. The Respondent was not able to provide the Tribunal with any evidence that she had reported these items to IPM or put them on notice that the work needed doing. She appeared, in so far as any reports had been made, to have reported matters only to Pier Management Ltd.
64. The Tribunal accepts that Ms Latif has carried out and paid for work. This does not justify a reduction in the amount which should be paid for works which have been carried out by IPM. Nor, in the absence of any evidence that these matters had been properly reported to IPM, does the fact that the Respondent regarded this work as necessary have an impact on the appropriate management fee.
65. The Tribunal did however identify one item of work which should not have been included in the repair charges incorporated into the service charge. On 1.5.18 a fee of £77.47 had been paid to AP Electrical Ltd to fit a lockable single socket to the communal areas. This replaced an existing conventional socket.
66. From the evidence before the Tribunal it appeared that there is no landlord's electrical supply to the communal areas. Mr Coleman had arranged for an electrical socket to be installed with the electrical supply being provided by Flat 1. The socket was therefore not the property of the Applicant. It may be that the Applicant could have removed the socket, which was installed in a communal area without permission. In the view of the Tribunal the Applicant could not, within the terms of the lease, carry out the works described above. This item must therefore be excluded from the service charge.
67. The sum of £38.73 must therefore be deducted from the service charge payable for 2018.
68. The Tribunal finds that in all other respects the service charge due is payable and reasonable. The adjusted figure due is £1307.11.

Application under section 20C

69. The Respondent has requested in her statement of case that the Tribunal should make an order pursuant to section 20C of the Landlord and Tenant Act 1985 preventing the Applicant from including the costs incurred in relation to these proceedings in the service charge.
70. Section 20C provides that the court may make such order on an application under section 20C as "it considers just and equitable in the circumstances".

71. The Respondent's challenge to the reasonableness and payability of the service charge has failed almost entirely. The only aspect in which the Tribunal has found in her favour related to an item which the Respondent had not herself raised.
72. In all the circumstances the Tribunal does not find that it would be just or equitable to make an order under section 20C in relation to any part of the costs incurred.

S Greenan
Tribunal Judge
20 July 2021