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

Case Reference : CHI/00LC/LIS/2013/0034

Property : Flat B, 128 Saxton Street.
Gillingham, Kent ME7 5EQ

Applicant : Mercia Investment Properties Ltd.

Representative : Mr. M. Paine

Respondent : Mr. D.J. Oldfield

Representative : Not represented

Type of Application : Service Charges
Section 27A of the
Landlord and Tenant Act 1985

Tribunal Members : Judge R. Norman (Chairman)
Mr. R. Athow FRICS MIRPM
Ms L. Farrier

**Date and venue of
Hearing** : 3rd September 2013
Chatham

Date of Decision : 23rd September 2013

DECISION

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Decision

1. The interim service charges of £500, being the instalment of interim service charges in respect of Flat B, 128 Saxton Street, Gillingham, Kent ME7 5EQ (“the subject property”) for the period 1st June 2012 to 30th November 2012 are reasonable and are payable by Mr. D.J. Oldfield (“the Respondent”) to Mercia Investment Properties Ltd. (“the Applicant”).

Background

2. The Applicant is the landlord of 128 Saxton Street. The Respondent is the lessee of the subject property which is the self contained first floor flat at that address.

3. The Applicant commenced proceedings against the Respondent in the County Court (Claim No. 2QZ54234) claiming the sum of £1,580. That sum included the interim service charges of £500 for the period 1st June 2012 to 30th November 2012, a charge of £540 in respect of a Section 146 Notice and agent’s fees of £540. The Applicant has since withdrawn the claim in respect of the two sums of £540, leaving only the sum of £500 in respect of service charges to be determined.

4. By an Order dated 8th March 2013, the case was transferred to the Leasehold Valuation Tribunal.

5. On 1st July 2013 the Leasehold Valuation Tribunal became part of the First Tier Tribunal (Property Chamber).

Inspection

6. On 3rd September 2013, the Tribunal, in the presence of the Respondent and his partner Ms Drummey inspected the subject property. There was no attendance by anybody on behalf of the Applicant.

7. The subject property is a self contained first floor flat with its own entrance to a small hall and stairs to the first floor where there are two bedrooms, a sitting room, a kitchen and a bathroom/WC. There was mould in all the rooms; the worst affected being the exterior walls at the corner of the building. From outside it could clearly be seen that at the corner of the building the lengths of guttering did not meet and as a result rainwater running off the roof at that point would run down the wall. Also one of the lengths of guttering has an insufficient number of fallpipes to be effective and there is a dip in the guttering which will cause water to over flow from the guttering onto the wall. There are places where the painted render has blown. There is a car parking area to the rear of the property and the boundary wall to that car parking area and a garden is cracked.

Hearing

8. The hearing was attended by Mr. Paine and Ms Walpole from Circle Residential Management Limited on behalf of the Applicant and by the Respondent and Ms Drummey.

9. Mr. Paine confirmed that the two sums of £540 which had been claimed in the County Court had been withdrawn leaving only the £500 in respect of interim service charges for the period 1st June 2012 to 30th November 2012 being claimed from the Respondent.

10. The Respondent confirmed that he had made a statement in which he stated that of the £500 interim service charges demanded he disputed only £147 which was the sum budgeted for repairs. He did not dispute the sums budgeted for other matters. He did not consider that a payment should be made for repairs when there had been a failure by the landlord to carry out repairs. He pointed out that over the time he had been the lessee (he moved in with his partner in November 2009) he had paid a total of £8,700.83 in management charges and had also completed repair notification forms but nothing had been done.

11. Mr. Paine accepted that work needed to be carried out to the building and a start had been made on the consultation process but although the Applicant is responsible for that work, the lessees have a duty to pay service charges and there had been difficulty in obtaining service charges from the Respondent. There had been a number of County Court claims and money had been paid by the Respondent's mortgagee.

12. Mr. Paine made an application for reimbursement of fees and stated that although he was not making a claim for costs at the present time he would be doing so.

Reasons

13. The Tribunal considered all the documents which had been supplied by and on behalf of the parties, all that had been heard at the hearing and all that had been seen at the inspection and made a decision on a balance of probabilities.

14. The only matter to be considered by the Tribunal in relation to the sum claimed was whether or not the sum of £500 claimed as interim service charges for the period 1st June 2012 to 30th November 2012 was reasonable and the only part of that sum which was disputed by the Respondent was £147.

15. That £8,700.83 in service charges had been paid by the Respondent during the time he has been the lessee was not disputed, but that was not only in respect of repairs to the building. It would include, for example, buildings insurance and the carrying out of health and safety checks.

16. The Tribunal came to the conclusion that the sum of £147 was reasonable as a budget for repairs in respect of the period 1st June 2012 to 30th November 2012 and the remainder of the interim service charge was not challenged.

17. There remains the application for reimbursement of fees. Mr. Paine stated that he would be making an application for costs and therefore the Tribunal decided that it would be appropriate to await the receipt of that costs application and to consider both applications at the same time.

Appeals

18. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

19. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

20. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

21. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

Judge R. Norman (Chairman)