



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

Case Reference : **CAM/22UH/LSC/2013/0148**

Property : **71 Trotwood, Chigwell, Essex IG7
5JP**

Applicant : **Tusbar Flat Management Company
Limited**

Representative : **Mr D R Foulds Solicitor**

Respondent : **Mr Adnan Anwar Chaudhary**

Representative : **None**

Type of Application : **Section 27A Landlord and Tenant
Act 1985 – determination of service
charges payable and Schedule 11
Commonhold and Leasehold
Reform Act 2002 – determination
of administration charges payable**

Tribunal Members : **Judge John Hewitt
Mr Stephen Moll FRICS
Mr John Francis QPM**

**Date and venue of
Hearing** : **Tuesday 1 April 2014
Packfords Hotel, Snakes Lane
West, Woodford Green**

Date of Decision : **4 April 2014**

DECISION

Decisions of the Tribunal

1. The Tribunal determines that as regards Claim No. 3YQ24356:
 - 1.1 The amount of service charges payable by the Defendant/Respondent to the Claimant/Applicant is as follows:

01. 04.2013	On account for the year	£1,010.09
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 - 1.2 The amount of administration charges payable by the Defendant/Respondent to the Claimant/Applicant is nil;
 - 1.3 The Tribunal does not have jurisdiction to determine the claims to the court fee and solicitor's costs and the file shall be returned to the Court for these claims to be determined.
2. The Respondent shall by **5pm Friday 2 May 2014** reimburse the Applicant the sum of £235.00 being fees paid by the Applicant to the Tribunal in connection with these proceedings.
3. The reasons for our decisions are set out below.

NB Later reference in this Decision to a number in square brackets ([]) is a reference to the page number of the hearing file provided to us for use at the hearing.

Procedural background

4. On 27 August 2013 the Applicant commenced court proceedings against the Respondent – Claim No. 3YQ24356 [1]. In those proceedings the Applicant claimed the sum of £1,402.09. At the hearing before us that sum was clarified to be made up as follows:

Service charges

01.04.2013	Yearly service charge in advance	£1,010.09
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Administration charges

Various	<u>£ 392.00</u>
	£1,402.09

The applicant also claimed:

Court fee	£ 80.00
Solicitor's costs	£ 80.00
Costs	Unspecified

5. A defence was filed. The gist of the defence was that the management charges were extortionate, that some sums claimed he had paid in advance and that the flat had been repossessed so that he was no longer liable for the service charges for the current year.

6. By order dated and drawn 11 December 2013 District Judge Mullis ordered that:

“The case be transferred to the First Tier Tribunal Property Chamber for the tribunal to determine all matters in dispute within its jurisdiction.”

7. Directions were given on 13 January 2014 [27]. Direction 13 required the Applicant to serve a supplemental statement of case. It has done so. Direction 14 required the Respondent to serve a statement of case. We are informed by the Applicant’s solicitor that he has not done so.
8. The hearing came on before us Tuesday 1 April 2014. The Applicant was represented by its solicitor Mr D R Foulds. He was accompanied by Mr Daniel Payne of Amber Management, the Applicant’s managing agents. The Respondent did not attend the hearing, and he did not send a representative. Evidently the Respondent’s mortgagees are in possession of the subject Property flat and are currently marketing the lease for sale.

The lease

9. By virtue of a lease dated 23 May 1983 and made between:

- (1) Esherfield Properties Limited as the Landlord;
- (2) Terence Donald Brett as the Tenant; and
- (3) Tusbar Flat Management Company Limited as the Company

the Property was demised for a term of 99 years from 25 December 1981 at a ground rent of £60 per year, increasing to £180 per year, and on other terms and conditions therein set out.

On 28 May 2004 the Respondent was registered at Land Registry as the proprietor of the lease.

10. The lease imposes an obligation on the Company to insure the development containing the Property, to carry out repairs and redecorations and to provide other services as set out in the lease.
11. The lease imposes an obligation on the Tenant to contribute to the costs and expenses incurred by the Company in carrying out its obligations. The lease specifies that the contribution payable is three ninety-third parts (3.2258%).

There is a provision for the Tenant to pay sums on account of the liability which arises.

The sums so payable appear to be service charges within the meaning of s18 of the Act.

The service charges

12. Mr Foulds took us through the relevant pages of the hearing file. The budget for the year commencing 1 April 2013 is at [42]. The total budget is for £31,313 and the Respondent is liable to contribute 3.2258% thus the demand sent to him for £1,010.09.
13. We were satisfied that the budget was reasonable in amount because it compares favourably with historic actual expenditure for year ended 31 March 2012 of £30,766 and actual expenditure for year ended 31 March 2013 of £28,929.
14. Accordingly we determined that the sum of £1,010.09 was payable in advance on 1 April 2013.

Administration charges

15. At the hearing Mr Foulds withdrew all of the administration charges that had been included in the court claim.
16. Accordingly we determined that no such charges were payable by the Respondent as claimed in the court claim.

Reimbursement of fees

17. In connection with these proceedings the Applicant has paid £235.00 to the Tribunal in respect of fees.
18. Mr Foulds made an application that the Respondent be required to reimburse this sum. Mr Foulds submitted that the court proceedings had been referred to the Tribunal because the Respondent had filed a defence. The claim having been referred and the Applicant obliged to pay the fees, the Respondent has failed to take any part in the proceedings or to pursue the matters raised in his defence. Mr Foulds submitted that the Respondent has acted unreasonably and as a direct consequence of that the Applicant has incurred the fees.
19. We accept the submissions made by Mr Foulds and we have thus required the Respondent to reimburse the fees of £235.00.

Judge John Hewitt
4 April 2014