



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

Case Reference : CHI/43UK/LIS/2014/0012

Property : Flat 9D 5-9 High Street Caterham Surrey
CR3 5UE

Applicant : Longmint Limited
(In Administration)

Representative : Houston Lawrence
J B Leitch Solicitors

Respondent : Ms. Denise Marshall

Type of Application : Section 27A of the Landlord and Tenant Act
1987

Tribunal Members : Judge D. R. Whitney
Mr. N. Maloney FRICS

**Date and venue of
Hearing** : 25th July 2014
The Law Courts, Redhill

Date of Decision : 25th July 2014

DECISION

BACKGROUND

1. This was an application transferred to the tribunal from the Croydon County Court.
2. The matter concerned a claim by the Applicant in respect of service charges and certain administration fees due and owing from the Respondent, a long leaseholder of the subject property.
3. Directions were issued by the tribunal on 2nd May 2014 including a direction that unless the Applicant served upon the Respondent any evidence upon which they sought to rely they would be de-barred from relying upon any evidence at the hearing.
4. On the 11th July 2014 a letter was received by the tribunal from J B Leith solicitors stating that they acted for the landlord and wished to adjourn the hearing as the directions had not been complied with.
5. This request was refused by email dated 14th July and required them to file a bundle by 12 noon on 18th July 2014.
6. On 17th July 2014 J B Leitch wrote again requesting a withdrawal of this case and explaining that they acted for Almond Land Limited who had acquired the freehold from the Applicant on 30th January 2014. No information was provided as to whether the benefit of this claim had been assigned and no representations have been received from the Applicant.
7. The tribunal indicated that it would deal with this request at the hearing. The Respondent was invited to make submissions.
8. The Respondent responded by email to the tribunal on 23rd July 2014 expressing her concerns that the matter was not to be resolved and attaching various photographs allegedly showing disrepair at her property.

THE LAW

9. The relevant law is contained in sections 19 and 27A of the Landlord and Tenant Act 1985. The tribunal has been ordered by the County Court to determine the reasonableness and the respondent's liability to pay charges claimed for the service charge years covering 2012-2013.

DETERMINATION

10. The tribunal starts by reminding the parties that it can only determine the matters as directed by the County Court. Other matters are outside of its jurisdiction and the parties should take advice as to the same.
11. The tribunal is not satisfied that Almond Land Limited may withdraw this case. That is a matter for the County Court to determine.

12. The tribunal notes that no evidence was adduced by the Applicant in support of its application despite direction being given. It appears the new owner of the freehold, Almond Land Limited does not wish to pursue these amounts but having regard to our duties to the County Court and the Respondent it is appropriate for this tribunal to make a determination as to the sums sought.
13. The tribunal determines that the following sums in the table below totalling £957.02 (all of the service charges and administration costs claimed) are not payable by the Respondent and are not reasonable as no evidence has been produced substantiating the Applicants right to recover the same or the reasonableness of the amounts claimed.
 - 24 June 2013-23 December 2013 Service charge £699.32
 - 24 June 2013-23 December 2013 End of year balancing charge £134.70
 - 24 September 2013 Legal costs £120
 - 24 October 2013 HMLR fee £3

Total £957.02

14. The tribunal returns this matter to the County Court for final determination.
15. The tribunal asks the court to note that the Applicant failed at all stages to engage with the process and directions of the tribunal. Whilst the new owner of the freehold, Almond Land Limited, has requested that the case be withdrawn given they are not a party to the County Court claim the tribunal were unable to deal with this and further asks the court to note that they have been the registered proprietor since 30th January 2014.

Judge D. R. Whitney

Appeals

1. 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.
2. 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.
3. 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.
4. 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.