



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

**Case Reference** : LON/00AZ/LSC/2014/0012

**Property** : 35a Inkerman Road London NW5  
3BT

**Applicant** : Mr Gerry Judah  
Ms Helen Bowers

**Representative** : SGH Martineau LLP

**Respondent** : Ms Helen Patricia Labro

**Representative** : HPLP Solicitors

**Type of Application** : Liability to pay service charge

**Tribunal Judge** : Ms N Hawkes

**Date and venue of  
paper determination** : 24.6.14 10 Alfred Place, London  
WC1E 7LR

**Date of Decision** : 24.6.14

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**DECISION**

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## **Decisions of the Tribunal**

- (1) The Tribunal determines that the sum of £14,814.50 is payable by the respondent in respect of the service charges claimed by the applicants in County Court Claim No.3YM67741.
- (2) The Tribunal orders the respondent to refund the hearing fee of £190 paid by the applicant within 28 days of the date of this decision.
- (3) The Tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985.

## **The determination**

1. Proceedings were originally issued in the County Court under Claim No. 3YM67741. The claim was transferred to this Tribunal for a determination of the reasonableness of the service charges levied by the applicants by order of District Judge Jackson sitting at the Central London County Court on 13<sup>th</sup> December 2014.
2. The applicants claimed that service charges in the sum of £16,042.53 were due from the respondent. By letter dated 14<sup>th</sup> April 2014, the respondent invited the Tribunal to determine that the sum of £14,814.50 is payable. By letter dated 17<sup>th</sup> April 2014, the Tribunal was informed that the applicants are prepared to accept a determination in this sum. Accordingly, I determine that service charges in the sum of £14,814.50 are payable by the respondent.
3. The Tribunal was also informed by the letter of 17<sup>th</sup> April 2014 that the applicants will be seeking an order that the respondent is to pay their costs.
4. The respondent is seeking an order pursuant to section 20C of the Landlord and Tenant Act 1985 (without prejudice to her contention that there is no provision in her lease allowing the applicants to recover legal costs arising out of this application).
5. By letter dated 29<sup>th</sup> April 2014 from the applicants' solicitors, the Tribunal was informed that the applicants had made a without prejudice offer Part 36 offer to the respondent on 25<sup>th</sup> June 2013 (that is before the matter was transferred to the Tribunal) to accept a sum lower than £14,814.50.
6. The Tribunal was also informed that between 29<sup>th</sup> January 2014 and 10<sup>th</sup> March 2014 the applicants were prepared to accept a sum totalling £13,586.50 inclusive of a contribution towards their costs (£11,400

together with 50% of the applicants' costs which then amounted to £4,373 in total).

7. The applicants' solicitors' letter of 19<sup>th</sup> April 2014 should have been contemporaneously copied to the respondent's solicitors in accordance with the heading to the Directions of 30<sup>th</sup> January 2014. In the event that this was not done, the respondent will be aware of this correspondence because it is in the bundle which has been prepared for this determination.
8. The respondent's solicitors have not sought to dispute the assertions made by the applicants' solicitors regarding the offers which have been made by the applicants. In light of these assertions, the Tribunal declines to exercise its discretion to make an order under section 20C of the Landlord and Tenant Act 1985 and orders the respondent refund to the applicants the Tribunal hearing fee in the sum of £190 which was paid to the Tribunal on 19<sup>th</sup> March 2014. The matter has now been resolved on less favourable terms than those offered to the respondent by the applicants in late January 2014.
9. The Tribunal makes no determination on the issue of whether or not there is provision in the respondent's lease allowing the applicants to recover legal costs arising out of this application. This will fall to be considered if a contractual claim for legal costs is made.
10. The Tribunal has no jurisdiction over County Court costs. This matter should now be returned to the County Court sitting at Central London.

Judge Naomi Hawkes

24 June 2014

## **Appendix of relevant legislation**

### **Landlord and Tenant Act 1985 (as amended)**

#### **Section 20C**

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.
  
- (2) The application shall be made—
  - (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
  - (aa) in the case of proceedings before a residential property tribunal, to that tribunal;
  - (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;
  - (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
  - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
  
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.