

13019



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

Case Reference : **MAN/00CG/LSC/2018/0029**

Property : **31 Park Grange Mount, Sheffield S2 3SP**

Applicant : **Gleeson Developments (North East) Ltd**

Representative : **Mainstay Residential Ltd**

Respondents : **N’Goran Jules Diango
Henri Keli**

Representative : **N/A**

Type of Application : **Landlord and Tenant Act 1985 – S27A
Commonhold and Leasehold Reform Act
2002 – Sch 11 para 5**

Tribunal Members : **I D Jefferson TD BA BSc FRICS
I R Harris MBE BSc FRICS**

Date of Decision : **12 February 2019**

**DECISION ON PART
AND FURTHER DIRECTIONS ON PART**

© CROWN COPYRIGHT 2019

DECISION

- 1 The Service Charges totalling £319.84 for the Service Charge Years 2016 and 2017 plus Balancing Charge £9.68 for 2016 year are payable in full.
- 2 The Tribunal require further information in respect of administration costs before being able to make a decision of that aspect.

INTRODUCTION

- 3 The Landlords, through their Agents, made Application to the County Court for payment of outstanding service charges and administration costs. The County Court by way of an order dated 21 May 2018 transferred this matter to this Tribunal for determination.
- 4 The Parties to these proceedings are respectively Freeholder or Landlord and Leaseholder or Tenant of the property, which is understood to be a semi-detached house on an estate totalling 125 units both houses and flats.
- 5 Directions were issued by the Tribunal on 16 October 2018 after the Parties had been notified that the matter was listed for a Case Management Hearing to take place in Manchester on 8 October 2018. This had to be abandoned as neither Party attended. It is regrettable that neither Party did so as the CMC would have been a good opportunity for this Tribunal to understand the issues and to require the Parties to provide the necessary documentation to make a decision on all matters.
- 6 Neither Party requested a Hearing and the Tribunal met on 8 January 2019 to deliberate, without inspection. The Parties both provided Statements of Case which have been considered by the Tribunal.

THE LEASE

- 7 A copy of the Lease dated 3 November 2005 between the original Parties was before the Tribunal. The Tribunal do not intend to detail the relevant provisions here.
- 8 In addition the Tribunal were provided with a copy of the Land Registry Leasehold Title document SYK514104 edition dated November 2007 which records the proprietors at that date as N'Goran Jules Diango and Henri Keli of Flat 3 Hill Top Court 345 Grange Road Norwood London SE19 3BX.

THE LAW

- 9 Section 19 of the 1985 Act and Section 27A of the same Act sets out the liability and limitation in respect of service charge payments.

10 Schedule 11 of the 2002 Act has regard to administration charges but the Tribunal have deferred any decision in respect of administration charges for the time being.

11 Reverting to service charges Section 27A (4) provides that:

(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

....

REPRESENTATIONS

12 The Applicants state that the service charges amounting to £159.92 in respect of each service charge year in question are outstanding and are payable.

11 The Respondent by letter dated 16 November 2018 and Statement of Case dated 11 October 2018 states that they are not disputing the amount of the service charges for each year in question:

“The Respondent disagrees with Applicant for the unpaid service charges be referred to FIT as Respondent is not disputing that the service charge claim are unreasonable or not reasonable incurred.”

And by letter

“Reasonableness has never been an issue in this case; I admit to the service charge but the Applicant did not serve on the Respondent at the relevant address for the purpose of Rule 6.18 to comply with CPR. I ask that it be recorded that Respondent is willing to pay the service charge in full and final settlement without having to pay the additional cost that Applicant have incurred due to their own negligence.”

THE TRIBUNAL’S DECISION AS TO THE SERVICE CHARGES

12 The Tribunal determine that the Tenant has agreed or admitted the service charges for Years 2016 and 2017 of £159.92 each year.

13 The Tribunal determine therefore that these total service charges are payable by the Tenant within 28 days of the date of this Decision.

14 Further a £9.68 service charge deficit for the 2016 year is also payable on the same terms.

15 It is not within the Tribunals jurisdiction to determine the Respondents liability for the £12.20 contractual interest claimed.

ADMINISTRATION COSTS

- 16 In brief the Applicants case is that they served Service Charge demands on an address in France which was the last known current address for the Tenant.
- 17 In or around the second half of 2017 the Applicants were made aware of a different address and the demand dated 15 December 2017 was served on the Tenant at Flat 9 Hill Top Court 345 Grange Road London SE19 3BX.
- 18 The Tenants failed to pay those service charges and accordingly the Applicants instructed Agents to take action to recover both the outstanding monies, and administration costs in the order of £406.00 and debt recovery costs in the order of £317.50 incurred.
- 19 The Respondents claim that they did notify the Landlords, or their Agents, of a change of address which the Applicants failed to act upon. As the Tenant was unaware of the service charge demands any administration charges are therefore not applicable.

FURTHER DIRECTIONS

- 20 The Tribunal find that there is insufficient documentation in the Statements of Case received to make an informed determination in respect of the administration costs element. This can be resolved by the parties producing further and specific information as follows.
- 21 The Tribunal considers it appropriate for the matter of the administration costs to be determined on papers to be provided without holding a Hearing. However, if either Party would wish to attend a Hearing, and upon payment of the appropriate fee, then a Hearing can be arranged subject to notification and payment within 28 days of the date of these Directions.

THE RESPONDENT

- 22 Within 21 days (beginning with the date of these Directions) the Respondent must send to the Applicants, together with three further copies to the Tribunal simultaneously, the following.
- A copy of the document notifying the Landlord or their Agent of the change in address from France to their new address
 - Mr Diango states that Mr Keli is no longer involved. The Lease makes specific provision for changes of ownership to be notified for example Schedule 4 Paragraph 8 Notices of Devolution, and elsewhere. Respondent to provide documentary evidence of any such change, or indeed any other document to formally confirm the status of Mr Keli.
 - An up to-date copy of the Land Registry Leasehold Title of the property.

THE APPLICANT

- 23 Within 7 days (beginning with the date with which the Respondents further Statement of Case is received) the Applicants must send the Respondent a short supplementary statement of reply to the Respondents Statement of Case. Three additional copies must be sent to the Tribunal at the same time.
- 24 The Applicants may include a copy of any relevant document they may wish to rely upon, for example any document received from the Tenant notifying them of the change of address within the period 1 January 2016 to 31 December 2017.

GENERAL

- 25 Submissions sent under these further Directions must be in a file or bundle, and must be numbered page by page together with a list of contents or index.
- 26 Documents sent in response to these Directions must be sent by post or by hand delivery only. Documents sent by fax or by email will not be accepted.
- 27 No documents, letters or emails may be sent to the Tribunal unless also sent to the other Party to these proceedings. Confirmation that this has been done must be clearly marked in all correspondence.
- 28 The Parties may apply for another Direction amending, suspending or setting aside these Directions. Unless made already during the course of a Hearing any such Application must be made in writing and must state the reason for making it.
- 29 Failure to comply with the Tribunals Directions may result in detriment to a Party's Case. For example it may lead to the Tribunal refusing to hear late evidence, to a Party's Case being struck out, and/or to an order for costs being made.

Tribunal Judge I Jefferson
12 February 2019