



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

Case Reference : CHI/00MS/LIS/2020/0027

Property : Flat 2 Woodland Gate, 358 Hill Lane,
Shirley, Southampton, SO15 7AH

Applicant : Shebbear Properties Limited

Representative : Stephen Boon – E & J Estates

Respondent : Mrs Sapna Singh Pathania

Representative :

Type of Application : Determination of service charges – Section
27A Landlord and Tenant Act 1985

Tribunal Member(s) : Judge D. R. Whitney

Date of Determination : 2nd October 2020

DETERMINATION

Background

1. The Applicant is the landlord of the property and applies in respect of service charges for a number of years- 2015 to 2020 inclusive. The Applicant states that the Respondent has refused to pay any service charges for that period.
2. The Tribunal issued directions on 27th May 2020. The Tribunal has received a bundle from the Applicant and references in [] are to pages within that bundle.

Discussion and determination

3. The bundle contains no statements or documentation from the Respondent. The Respondent has on two occasions emailed the tribunal.
4. Firstly, on 14th September 2020 when she indicated she had struggled to obtain advice but stated that she did not believe that the Applicant was carrying out works she believed were required. A second email was received dated 22nd September 2020 referring to the Respondent as suffering with ill health over a number of years and being reliant upon Universal Credit. The Tribunal has read and considered both emails.
5. The Applicant is the freeholder of the Property and the leaseholder owns the leasehold of a flat in the Property. An application dated 26th May 2020 [1-19] was made by the Applicant. The Applicant sought a determination of the Respondents liability to pay and the reasonableness of service charges incurred in the years 2015 to 2020 inclusive. The Applicant suggests there is a sum of £5,459.61 in dispute.
6. A copy of the lease [20-45] is within the bundle. This provides that the Respondent is liable to pay 1/6th of the service charge costs by way of advance payments on 1st January and 1st July in each year with a balancing payment upon provision of accounts if required.
7. It appears this is not the first dispute. The bundle contains a County Court Order and Tribunal decision both dated 25th July 2018 [84-94]. That Tribunal determined that the on-account payments for 1st July 2016 and 1st January 2017 and a payment toward the bike shed in the sum of £147.50 were reasonable and payable.
8. The Tribunal finds that given those sums have been adjudicated upon it has no jurisdiction to determine the same.

9. At [95 and 96] is a statement on account showing the sums upon which the Tribunal is being asked to adjudicate. This statement includes various amounts in respect of interest and administration charges as a result of non-payment of service charges. This Tribunal does not under this application have any jurisdiction to determine the same.
10. The Tribunal has considered carefully the emails from the respondent and has considered whether, or not, it should issue any further directions. Looking at the final email the Tribunal records that whilst it has sympathy with the personal circumstances of the Respondent given her illness and reliance on benefits, those are not matters which are strictly speaking relevant to the issues to be determined.
11. In her first email the Respondent appears to be suggesting that the Applicant should be undertaking further works to the Property. There is no explanation provided by her as to why she has not made payment. Whilst the current pandemic has limited every citizen's movements the Tribunal takes account of the fact that in the previous proceedings the Respondent took an active part. Plainly she has knowledge as to what is required. I am satisfied that the Respondent has had the opportunity to formulate her case and that she could, if she so wished, have made an application for the time provided to her to be extended. She has not done so.
12. The Tribunal determines that it is just and fair to proceed to determine this application. The Respondent has given no indication that she actually disputes that the amounts claimed are payable and reasonable. It appears her ability to pay due to her own financial circumstances may be difficult and that she would prefer further works to be undertaken. Plainly without payment of service charges the ability of the Respondent to undertake any works will be limited.
13. Turning to the sums claimed, I have been provided with copies of the accounts for the completed service charge years. I have also considered the lease terms. I am satisfied that the amounts claimed are reasonable and find that the following sums are due and payable by the Respondent:

• Excess service charge 31.12.15	£231.13
• Balancing service charge year end Dec 2016	£699.23
• In advance 01.07.2017	£607.61
• In advance 01.01.2018	£778.75
• In advance 01.07.2018	£778.75
• Deficit year end Dec 2017	£593.64
• In advance 01.01.2019	£797.67
• In advance 01.07.2019	£797.67
• In advance 01.01.2020	£839.25

14. It will be for the Applicant to apply these to the account and to give credit for any and all payments received from or on behalf of the Respondent and to apply any credit balances such as for surplus' in any service charge year. Further I make clear that it may be, and the previous Tribunal did so find, that interest and costs may be found recovered from the Respondent if she fails to pay sums determined as due and payable under the terms of her lease.

RIGHTS OF APPEAL

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