



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

**Case reference** : LON/00BG/LSC/2015/0346

**Property** : Flat 10, Sherbrooke House, Bonner Street, London E2 9NE

**Applicant** : London Borough of Tower Hamlets

**Respondent** : Sylvia Carr

**Type of application** : Liability to pay service charges

**Tribunal members** : Judge Timothy Cowen  
Mr M Taylor

**Date of Decision** : 16 September 2016

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**SUBSTANTIVE DECISION**

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**Decision of the tribunal**

- A.** The Tribunal determines that the amount of service charges payable in respect of the amount claimed in the matter referred to the Tribunal by the county court (claim No. A65YM208) is the sum of £7,759.61.
- B.** For the avoidance of doubt, the sum so determined does not include any amount in relation to interest or costs.

The reasons for that decision are set out below.

- On 12 July 2016, this Tribunal gave notice to the parties, under rule 31(3) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("the Rules"), of our intention to dispose of these proceedings without a hearing. That notice set out the order which the Tribunal was minded to make. It is the same order which is now made substantive by this decision.

2. The notice further provided that if any party wanted to object to the proposed orders they should do so in writing with reasons by no later than 5 pm on Monday 22 August 2016 and must send a copy to the other party. No objections or any other submissions were received by the Tribunal from the parties by that date, or at any time thereafter.
3. As a result the parties are taken to have consented to the matter proceedings without a hearing, by virtue of rule 31(3) of the Rules. The Tribunal has considered the matter further and has now decided to make this substantive decision without a hearing, as proposed.
4. The reasons for this decision are substantially the same as the reasons given by the Tribunal on 12 July 2016 for our intention to make this order. The reasons are set out again here for completion, as follows.
5. In July 2014, the applicant council issued county court proceedings against the respondent leaseholder, Ms Carr, claiming unpaid service charges in the sum of **£12,552.95**. The respondent filed a defence and the matter was transferred to this tribunal by order dated 3 August 2015. Following the issue of directions, the matter was listed for hearing on 12 November 2015. On that date, the tribunal gave further directions for the preparation of the case, with a view to a further hearing on 27 January 2016.
6. In accordance with those directions, on 30 November 2015, the tribunal received a witness statement from the council, signed by Ms Anjum Iqbal on 26 November, and a detailed statement of account relating to 10 Sherbrooke House. The statement of account showed that, after carrying out investigations which on 12 November 2015 the Tribunal ordered it to carry out, the council was now claiming the reduced sum of **£7,759.61**.
7. Immediately prior to the hearing on 27 January 2016, the council provided the tribunal with a string of emails with Ms Carr, which appeared to show that she agreed to pay the balance of the outstanding service charges, in the sum of **£7,759.61**. Although the council was awaiting the return of a signed Tomlin Order, to bring the county court proceedings to an end, it applied to vacate and the tribunal duly vacated the hearing on 27 January.
8. Notwithstanding the apparent agreement, it appears that Ms Carr did not sign and return the Tomlin Order to the council, which is now asking the tribunal to take further steps in the proceedings. The basis for the apparent agreement is contained in emails between 14 January 2016 and 21 January 2016, as follows. On 15 January 2016, Ms Carr appears to be agreeing to vacate the 27 January hearing on the basis that there are no longer any issues between the parties. On 20 January 2016 at 10:58, Ms Carr emailed the Council and asked for (a) confirmation of various details on the service charge account “as per your total calculation £7,759.61” and (b) details of how to pay. In that email, she continues:

“I undertake to settle in full said outstanding amount on receipt of your reply and confirm my agreement to vacate the forthcoming hearing”

On 21 January 2016 at 12:42, Ms Iqbal of the Council emailed Ms Carr providing all of the information which she had asked for. Since that date, there has been no communication from Ms Carr.

9. The hearing on 27 January 2016 was duly vacated, but despite requests from the Tribunal, no signed consent order has been produced by the parties and the Council have informed the Tribunal that they have been unable to obtain Ms Carr’s signature on a consent order.
10. In the circumstances, the matter falls to be resolved by a substantive order from this Tribunal in order that the matter can be referred back to the county court. The Tribunal has reached the decision that the emails summarised above amount to an agreement by Ms Carr to pay the sum of **£7,759.61**. There is a clear expressed consensus between the parties as to the amount to be paid and the agreement provides for certain trigger events before payment becomes due. Given that the amount is clearly agreed and our jurisdiction is concerned with reasonableness, it is not necessary for us to decide whether the triggering conditions for payment have been satisfied, but we do find as a fact that the Council has satisfied those triggering conditions in any event.
11. The Tribunal has also considered the statement of account produced by the Council since the last hearing (in the same sum). We have decided that it is a true reflection of the service charges payable in respect of the county court claim and we note that Ms Carr does not dispute that sum even after she has been served with the statement. We therefore decide that the amount of **£7,759.61** is reasonable, aside from the fact of the agreement between the parties described above.
12. For all those reasons, we have made the order set out above.

**Name:** Judge T Cowen      **Date:** 16 September 2016