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

Case reference : LON/00AH/LSC/2018/0267

Property : 232b London Road, Croydon,
Surrey CR0 2TF

Applicant : Mr M Khan (tenant)

Representative :

Respondent : Mr S Shah (landlord)

Representative :

Type of application : For a determination of the liability
to pay and the reasonableness of
service charges

Tribunal member(s) : Judge S Brilliant

**Date and venue of
hearing** : 6 November 2018 at 10 Alfred
Place, London WC1E 7LR

Date of decision : 6 November 2018

DECISION

1. The Tribunal finds that Mr Khan (“the tenant”) is not liable to pay to Mr Shah (“the landlord”) any service charges in respect of the service charge years ending 24 March 2015, 24 March 2016, 24 March 2017 and 24 March 2018.
2. The Tribunal finds that the tenant is liable to pay the landlord advance service charges of £75.00 for the service year ending 24 March 2019. This sum is extinguished, however, by the order made below that the landlord must reimburse the tenant the application fee of £100.00 and pay costs of £130.00 to the tenant.

The application

3. This is an application made by the tenant for the determination of the liability to pay and the reasonableness of service charges. The application is made in respect of services provided to the tenant by the landlord for 232b London Road, Croydon, Surrey CR0 2TF (“the flat”).
4. The tenant is the lessee of the flat under a lease dated 15 September 1982 made between Carrington Investments Ltd and Devonhurst Investments Ltd.
5. The flat is in a terrace above commercial premises.

The procedural history

6. The application was received by the Tribunal on 17 July 2018. The application seeks a determination of what is owed for the year ending 2012 through to the year ending 2019.
7. However, on 12 December 2012 the Tribunal determined (LON/00AH/LSC/2011/0871) that the tenant owed no service charges in respect of the years ending 2007 through to the year ending 2012. So the year ending 2012 has already been determined.
8. Moreover, on 17 March 2015 the Tribunal determined (LON/00AH/LSC/2014/0538) that the tenant owed no service charges in respect of the years ending 2013 and 2014. So the years ending 2013 and 2014 have already been determined.
9. Directions were given on 18 September 2018 for a paper hearing. The landlord was ordered to send to the tenant on or before 31 October 2018 copies of all demands, service charge accounts (certified or audited in accordance with the lease) together with copies of all demands, statements, invoices and receipts that make up the accounts

for the years in question. The landlord was warned that if he failed to respond, the tribunal might determine the case against him.

10. The landlord has failed to participate in these proceedings as he failed to do in the previous two sets of proceedings. He has produced no documents.

The lease

11. By clause 2(3)(i) of the lease, the tenant covenanted to pay a service charge of one half of certain costs incurred by the landlord. By clause 3(ii) the amount of the service charge was to be ascertained and certified after the end of the financial year. This was to the year ending 6 April, but has recently been taken as to the year ending 24 March. An advance payment of £37.50 is to be made on 25 March and 29 September.

The service charges claimed

12. On 26 March in each year from 2014 to 2018 inclusive, the landlord has demanded advance service charges for that year in the sum of £2,500.00.

Discussion

13. The landlord is not entitled to demand advance service charges in excess of £75.00 per year. The landlord has not complied with the machinery for collecting the service charges, there is no evidence that any of the costs have ever been incurred and the landlord has failed to produce any of the underlying documents requested of him. The landlord has yet again failed to participate in the proceedings.
14. Reference should also be made to the two earlier sets of proceedings, in which similar findings were made.

Costs

15. The landlord's conduct in these proceedings can only be described as not just unreasonable but disgraceful. It is just and equitable to make an order under s.20C. The tenant is entitled to his costs claimed of £130.00 and the refund of his £100.00 fee.

Name: Simon Brilliant

Date: 6 November 2018

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).
