



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

Case reference : **LON/00AC/LAC/2019/0010**

Property : **15 Belvedere Court, Lyttleton Road,
London N2 0AG**

Applicant : **Yael Salem (Nee Yamin-Joseph)**

Representative : **Michael Slee**

Respondent : **Belvedere Court 200 Limited**

Representative : **Crabtree Property Management**

Type of application : **For the determination of the
reasonableness of and the liability
to pay an administration charge**

Tribunal Members : **Judge Robert Latham
Mr Richard Shaw FRICS**

**Venue and Date of
Hearing** : **10 Alfred Place, London WC1E 7LR
on 25 June 2019**

Date of decision : **1 July 2019**

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that the alleged administration fee of £1,487.03 is not payable.
- (2) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985.
- (3) The Tribunal determines that the Respondent shall pay the Applicant £100 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicant.

The Application

1. By an application issued on 7 May 2019, the Applicant seeks a determination pursuant to Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (“the Act”) as to whether an administration charge of £1,487.03 for legal fees is payable. The Applicant stated that he was content for a paper determination.
2. On 17 May, the Tribunal gave Directions. The Respondent was directed to serve a Statement of Case setting out the following: “the relevant terms of the lease that enable the administration charge to be made, provide a copy of the demand (including any accompanying paperwork), a copy of the invoice in relation to the costs claimed, and address the grounds for the application within the application form together with any other documents on which it wishes to rely in support of its case that the charge is payable and reasonable”.
3. Pursuant to the Directions, the Applicant has filed an extensive bundle of documents which includes the (i) the application form which sets out the basis of the Applicant’s claim (Tab 1); the Lease (Tab 4); the Respondent’s Statement of Case (at Tabs 3 & 4) and the Applicant’s Statement of Case in Response (Tabs 5 and 6).

The Law

4. Schedule 11 of the Act permits a party to apply to this Tribunal to determine the payability and reasonableness of any variable service charge. Paragraph 4 provides that a demand for a payment of an administration charge must be accompanied by a summary of the rights and obligations of tenants in relation to administration charges. The contents of such a notice are prescribed by the Administration Charges (Summary of Rights and Obligations) (England) Regulations 2007 (SI 2007/1258).

The Background

5. The Applicant is the lessee of Flat 15 Belvedere Court, Lyttleton Road, London N2 0AG. He acquired the leasehold interest on 27 November 2014 (see 4.1). He occupies the flat pursuant to a lease dated 18 February 1997 which was varied on 31 October 2001 (Tab 4).
6. The Respondent refers us to Clause 3(20)(c) of the lease whereby the lessee the lessee is prohibited from subletting the flat without the previous written consent of the lessor, such consent not be unreasonably withheld or delayed. The Respondent does not refer us to any provision in the lease whereby an administration charge becomes payable if the lessee is in breach of this term.
7. The Respondent has arranged for the block to be managed by Crabtree Property Management (“Crabtree”). Crabtree charge an administration fee of £150 (inc VAT) for any application for consent. A lessee is required to complete a registration form, provide a copy of the tenancy agreement and pay the fee.
8. The Applicant does not occupy his flat, but sublets it. It seems that in November 2018, Crabtree learnt that there was a new tenant and wrote to the Applicant asking him to make the appropriate application. On 6 December, Crabtree wrote a further letter stating that they had not received any registration documents and requesting these within 7 days.
9. The Applicant has produced a set of the registration documents at Tab 10. This includes a Tenant Registration Form dated 11 December 2018 and an Assured Shorthold Tenancy Agreement, dated 17 August 2018, granting a term of 24 months. He has also produced an e-mail dated 11 December 2018 sent by Michael Salem which enclosed the registration form and tenancy agreement (at 6.1). On 12 December, Amanda Freeman (Crabtree) acknowledged receipt but requested confirmation from the Applicant that Mr Salem was authorised to act as his agent.
10. Mr Salem states that he had previously sent the documents, but these had not been received by Crabtree. He had telephoned Crabtree on 11 December in response to the letter, dated 6 December. Crabtree confirmed that they had received the fee, apparently paid electronically, but not the documents which had been sent by post.
11. In their Statement of Case ([5] at 3.2), the Respondent assert that no response was received from the Applicant to Crabtree’s letter of 6 December. Accordingly. The Respondent therefore instructed Solicitors to deal with the unlawful letting.

12. Thereafter, two further matters arose, which are not directly relevant to this application:

(i) There was a problem of water penetration affecting Flat 13. The porter first contacted the Applicant about this on 21 November. The Applicant checked the flat and could not identify any cause. It seems that the fault was rather the communal pipework, but the leak could only be identified by drilling a hole through the wall in Flat 15. This occurred on 29 November. In the experience of this Tribunal, it is often difficult to identify the cause of such leaks. It requires the goodwill and cooperation of all parties.

(ii) The landlord complained that the tenants were causing a nuisance. It seems that the Applicant has required the tenants to leave and has now sublet the flat to other tenants. He has sought the requisite consent, but the landlord is refusing to process this until the administration charge in dispute is paid.

13. The Tribunal is required to determine the payability and reasonableness of an administration charge of £1,487.03. Despite the Directions, the Respondent has failed to provide either a copy of the demand or the requisite summary of rights and obligations which should have accompanied any such lawful demand.

14. The Respondent has provided two invoices submitted by Lee Pomeranc, Solicitors, to the landlords in the sums of £1,044.53 (dated 16 January 2019 at 4.53) and £442.50 (dated 26 March 2019 at 4.55). The Respondent has paid these fees. However, there is nothing before this Tribunal to indicate that the Respondent has issued a lawful demand to the Applicant. The situation rather seems to be that the Respondent is refusing consent to the current sub-letting until the Applicant pays these legal fees.

The Tribunal's Determination

15. The Tribunal is not satisfied that the administration fees of £1,487.03 are payable for the following reasons:

(i) The Respondent has adduced no evidence that a lawful demand has been made for the payment of an administration fee of £1,487.03 accompanied by the requisite summary of rights and obligations. The Directions required the Respondent to provide this.

(ii) The Respondent has failed to identify the term of the lease that would entitle it to demand the payment of this fee in respect of an alleged breach of covenant. Again, the Directions required the Respondent to identify this.

(ii) The Respondent's case is premised on the assertion that the Applicant failed to respond to Crabtree's letter, dated 6 December, and that this failure justified the landlord to escalate the case to solicitors. We are satisfied that the Applicant did respond to this letter (see [9] and [10] above).

Application under s.20C and Refund of Fees

16. In the application form, the Applicant applied for an order under section 20C of the Landlord and Tenant Act 1985. In the light of our findings above, the Tribunal determines that it is just and equitable in the circumstances for an order to be made, so that the Respondent may not pass any of its costs incurred in connection with the proceedings before the tribunal through the service charge.
17. We are also satisfied that the Respondent should refund the Applicant the tribunal fees of £100 which he has paid pursuant to Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Judge Robert Latham
1 July 2019

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).