

DECISION AND REASONS OF THE LEASEHOLD VALUATION TRIBUNAL

In the matter of an application under Section 27A Landlord and Tenant Act 1985

In relation to premises at 213 Hansen Court, Zurich House, Glan Rheidol, Cardiff, CF10 5NZ

LVT/0048/02/22

Applicant: Century Wharf (Three) RTM Company Limited

Respondent: Mr Mark Tudor Roberts

Tribunal members: Chairman - Judge Shepherd
Surveyor - Andrew Lewis FRICS
Lay Member - Dr Angie Ash

1. In this case the Applicant, Century Wharf (Three) RTM Company Limited (“The Applicants”) are seeking a determination in relation to the payability and reasonableness of unpaid service charges by Mr Roberts, (“The Respondent”). The case started life in the County Court where the Applicants were originally claiming £12,745.35. The claim had reduced by the time of the hearing as some concessions had been made as to service charges excluded by limitation.
2. The Respondent put in a holding defence to the claim in the County Court. He then submitted an amended defence dated 15th of November 2021. Its provenance is unclear because there does not seem to be an order allowing him to amend his defence. In any event submissions were made by the Claimant on the basis that the amended defence was valid.
3. The case was transferred to the Tribunal after an attempt at settlement failed. The transfer took place by order of District Judge Phillips sitting at Cardiff County Court on the 18th of November 2021. Directions were given by the Tribunal on the 23rd of February 2022. The directions initially required disclosure by the Applicants and then the Respondent was required to provide a schedule outlining the items in dispute by 12 noon on the 1st of April 2022. This was not complied with.
4. By amended directions the Respondent was required to comply with the direction relating to the schedule by 12 noon on the 13th of May 2022. In this directions order it

was made clear that if he did not comply then pursuant to Article 12 of The Leasehold Valuation Tribunals (Procedure)(Wales) Regulations 2004 he was barred from taking any further part in these proceedings. The Respondent failed to comply with these amended directions and he was therefore debarred from taking part in the proceedings.

5. The Respondent attended the hearing which took place by cloud video platform. He was asked why he had not complied with the unless order and said that he had not received the amended directions. In fact, it was clear that he had received the directions but they had gone into his junk e-mail. The onus was on him to check his junk e-mail. He had not done so and therefore he remained debarred.
6. Mr Strelitz represented the Claimant freeholder. He was anxious to ensure that the Tribunal followed its previous direction and the Respondent had no right to take part in the proceedings. There was however a debate as to whether the Respondent's defence or Amended defence were in play. In the event the Tribunal gave the Respondent the benefit of the doubt and allowed him to rely on the Amended Defence which was filed prior to the debarring order. He was not however allowed to further advance the amended defence during the hearing.
7. Mr Strelitz meticulously went through every item in the amended defence and dismissed their importance. Taking these matters in order:
 - a) The argument that the Right to Manage company could not collect the service charges was flawed because the Right to Manage company had taken over the freeholder's responsibilities under the lease.
 - b) The fact that some of the service charges were not payable by virtue of the six year limitation period had been conceded and the service charge demand reduced.
 - c) The claim in these proceedings was not forfeiture but was a claim for a determination which the Right to Manage company was entitled to pursue.
 - d) The lease allowed for the recovery of administration charges in the event of default in payment and the charges were reasonable in the context of a leaseholder who had not paid his service charge for some time.
 - e) Overall, the service charges claimed by the Applicants were reasonable and the defendant had failed to file his schedule challenging individual charges.
 - f) The charges all complied with section 47 and 48 of the Landlord and Tenant Act 1987.

Determination

8. The Tribunal accepts the arguments put forward by Mr Strelitz on behalf of the Applicants. None of the matters raised in the Amended Defence prevent the Tribunal

from accepting that the service charges claimed are due and owing. Accordingly, the Tribunal orders the Respondent to pay £5975.36 within 14 days.

9. The Tribunal will not exercise its discretion under section 20C of the Landlord and Tenant Act 1985 because the Respondent failed to take any proper role in these proceedings despite correspondence being sent to his last known address both by the landlord and the Tribunal itself. Therefore, there was no real reason why he had not complied with directions. If as he suggested the Amended Directions were sent to his junk mailbox the onus was on him to check this. In any event even if the Respondent had complied with directions and not been debarred his Amended Defence was unimpressive and its very unlikely he would have been able to persuade the Tribunal otherwise. Many of the arguments he raised have been raised by him and dismissed by the Tribunal in other cases. He is a serial non - payer of service charges who has taken up a lot of the Tribunal's time usually to no effect. He should now hopefully be aware that the Tribunal will consider with careful scrutiny any repeat arguments which appear to have no merit and will not allow him to take up further Tribunal time in running such arguments.

Dated this 9th day of August 2022

Judge Shepherd