



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

Case reference	:	CAM/00MC/LSC/2020/0033
Property	:	Chatham Place, Reading, Berkshire RG1 7LF
Applicant	:	Chatham Place (Building 1) Manco Limited
Respondents	:	All leaseholders of the (211) residential apartments at the Property
Type of application	:	Liability to pay service charges
Tribunal	:	Judge D Wyatt
Date of decision	:	5 January 2021

NOTICE OF DECISION TO STRIKE OUT A CASE

Decision

These proceedings are hereby struck out under rule 9(3)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the “**2013 Rules**”).

Reasons

1. The applicant management company applied on 3 August 2020 seeking a determination under section 27A of the Landlord and Tenant Act 1985 (the “**1985 Act**”) as to whether certain service charges are payable for the service charge years to 30 June 2020 (actual) and 2021 (estimated).
2. The application form stated that the sum in dispute was £618,746 and set out details of the relevant charges. In summary, these are:
 - for 2019/20, costs of specific measures said to have been necessary to satisfy the fire and rescue service in relation to the cladding at the Property, and costs of a related claim against a contractor; and

- for 2020/21, estimated further costs of the such measures, the claim against the contractor and seeking to negotiate settlement.
3. On 12 August 2020 the tribunal gave case management directions requiring the Applicant to serve the application and directions on the leaseholders and the landlord, requiring leaseholders who opposed the application to complete a reply form by 18 September 2020 and:
 - requiring the Applicant to send its case and supporting documents (as specified in the directions) to the Respondents by 2 October 2020;
 - requiring leaseholders to send their case documents in response (as specified in the directions) by 30 October 2020, and giving permission for the Applicant to reply by 20 November 2020; and
 - requiring the Applicant to produce and deliver the bundles for the hearing by 4 December 2020.
 4. Those directions warned that, if the Applicant failed to comply with them, the tribunal could strike out all or part of its case under rule 9(3)(a) of the 2013 Rules.
 5. On 26 November 2020, the Applicant sent an e-mail to the tribunal indicating that there were “*no active Respondents*” but it had not complied with the directions. It said that “*in the most*” this had been the result of time spent on legal action against the original developer of the Property and an application to the Building Safety Fund which had just indicated approval for pre-tender support of just over £1m. The Applicant asked for new direction dates for 2021 and said it hoped that if it was successful in achieving full funding from the Building Safety Fund the application may not be necessary.
 6. On 9 December 2020, in response to a request from the tribunal for clarification and representations as to whether the proceedings should be struck out under rule 9 of the 2013 Rules for failure to comply with the directions, the Applicant confirmed that it had served the application and directions on the Respondents on 27 August 2020 and asked that new directions be issued for 1 April 2021 onwards, given the potential for funding from the Building Safety Fund.

Conclusion

7. Parties have a duty to co-operate with the tribunal generally, and to help the tribunal to further the overriding objective. If parties do not comply with directions or apply promptly (as set out in the directions) for more time, tribunal resources may not be used effectively. The Applicant did not apply for variation at the time; it simply failed to comply with the substantive directions. It contacted the tribunal only shortly before the concluding deadline for delivery of the hearing bundles, when the substantive hearing would otherwise have been

listed. Moreover, the Applicant now says that it cannot even state its case until well into this year, when it knows what funding will be available to it from the Building Safety Fund, and that ultimately the application might not be needed at all. By April 2021 or later, it would probably be necessary to give fresh notice to the (then) leaseholders to enable them to decide whether to become active Respondents to whatever case (if any) the Applicant then wished to pursue. In the circumstances, it is not appropriate to further delay the proceedings with a view to reviving them later this year as requested. There is nothing to prevent the Applicant from making a new application in due course (if it decides to do so) when it has the necessary information and is ready to follow a reasonable timetable.

8. Accordingly, I strike out the whole of these proceedings under rule 9(3)(a) of the 2013 Rules. For the avoidance of doubt, this decision will not prevent the Applicant from making a new application in future in respect of the same or similar subject matter.
9. The Applicant is directed to send a copy of this notice to all Respondents.

Judge D Wyatt

5 January 2021

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).