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**HM COURTS AND TRIBUNAL SERVICE**  
**LEASEHOLD VALUATION TRIBUNAL**  
**OF THE**  
**MIDLAND RENT ASSESSMENT PANEL**

BIR/00FY/LSC/2012/0007

*DECISION OF THE LEASEHOLD VALUATION TRIBUNAL  
ON AN APPLICATION  
UNDER SECTION 27A OF THE LANDLORD AND TENANT ACT 1985*

<u>Applicant:</u>	City Heights RTM Company Limited
<u>Respondent:</u>	Mr G Anderson
<u>Subject properties:</u>	10 and 20 Lister House Ockbrook Drive City Heights Mapperley Nottingham NG3 6AU
<u>Date of application to Leasehold Valuation Tribunal:</u>	27 January 2012
<u>Member of the Tribunal:</u>	Professor N P Gravells MA
<u>Date of decision:</u>	30 March 2012

## Introduction

- 1 This is a decision on an application made to the Leasehold Valuation Tribunal by City Heights RTM Company Limited, the RTM company responsible for the management of 10 and 20 Lister House, Ockbrook Drive, City Heights, Mapperley, Nottingham NG3 6AU ("the subject properties") since January 2011. The application, dated 25 January 2012 and received by the Tribunal on 27 January 2012, is under section 27A of the Landlord and Tenant Act 1985 ("the 1985 Act") for a determination of the respondent leaseholder's liability to pay service charges in respect of the subject properties.
- 2 The Respondent is Mr G Anderson, leaseholder of the subject properties. He holds the properties under leases dated 4 March 2004 and 23 December 2003 respectively for terms of 999 years from 1 October 2002.
- 3 The subject properties are two of 169 properties in six blocks, which constitute the City Heights development in the Mapperley area of Nottingham.
- 4 By clause 3.2 of the leases the Respondent covenants to pay a stated proportion of the service charge for each service charge year (1 April to 31 March) by two equal instalments on 1 April and 1 October. The service charge comprises two elements - charges for services in respect of the block containing the subject properties and charges for services in respect of the Estate, as set out in Parts I and II respectively of the Fifth Schedule to the lease.
- 5 A Statement of Anticipated Service Charge Expenditure for the service charge year 2011/2012 and demands for the advance payments totaling £1997.74 (£998.87 for each of the subject properties) were sent to the Respondent. Although that sum was payable in two instalments on 1 April 2011 and 1 October 2011, at the date of the application to the Tribunal the Respondent had failed to make any payment.
- 6 The Applicant therefore made the present application seeking a determination that the sums demanded are payable by the Respondent.
- 7 The Tribunal issued Directions, requiring the Respondent to provide a written statement, indicating any service charge item in respect of which he alleged (a) that the costs incurred by the Applicant were not reasonably incurred and/or (b) that the relevant services or works were not of a reasonable standard and/or (c) that the Respondent was not liable to pay the service charge demanded by the Applicant.
- 8 The Respondent failed to provide any statement by the specified date of 24 February 2012. However, on 7 March 2012 the Respondent telephoned the Tribunal and explained that he had been overseas and had only recently seen the Directions. Later that morning he sent an email to the Tribunal, explaining that he was experiencing some financial difficulties; that he was aware that the service charges had to be paid; that he wished to make arrangements with the Appellant for the payment of the outstanding charges; and that he had already made two part-payments totaling £400.00 in early February. There was no intimation that he wished to challenge the reasonableness of the service charges or his liability to pay them.
- 9 In response to the Respondent's email, the Applicant indicated that, in the absence of an express written statement from the Respondent acknowledging his liability to pay the service charge demanded, the Applicant wished to pursue its application to the Tribunal. The Respondent has not responded to that statement of position.

- 10 In accordance with regulation 13 of the Leasehold Valuation Tribunal (Procedure) (England) Regulations 2003 (as amended) ("the 2003 Regulations") the Tribunal gave notice in the Directions that it intended to proceed to determine the application without an oral hearing; and, in the absence of a request from either party for a hearing, the Tribunal has made its determination on the basis of the written representations submitted by the parties.

### **Determination of the Tribunal**

- 11 In the view of the Tribunal, the position is straightforward and the principles to be applied by the Tribunal are those discussed in the decision of the Court of Appeal in *Yorkbrook Investments Ltd v Batten* [1985] 2 EGLR 100 and in the decision of the Lands Tribunal in *Schilling v Canary Riverside Development Ltd* (2005).
- 12 It is not disputed that the Applicant has incurred costs which it is entitled to recover under the service charge provisions of the leases.
- 13 The Respondent has not raised any issue as to the reasonableness of those costs or as to his liability to pay the service charges demanded.
- 14 The Tribunal therefore determines that, subject to paragraph 15 below, the sum of £1997.74, representing the service charges payable in advance in respect of the subject properties for the service charge year 2011/2012, is payable by the Respondent to the Applicant.
- 15 The above sum is to be reduced by the amount of any payments which have been made by the Respondent to the Applicant since the date of the application and which the Applicant has appropriated to the service charge account of the Respondent in respect of the subject properties.

Professor Nigel P Gravells

Dated 30 March 2012