



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

Case Reference : **LON/00BG/LUS/2016/0001**

Property : **9 Strahan Road, London, E3 5DA**

Applicant : **9 Strahan Road RTM Co Ltd**

Representatives : **Roger Paul Kite, Secretary**

Respondents : **West Lancashire Investments Ltd**

Representative : **Monica Duggal, Legal Conculant**

Type of Application : **Uncommitted Service Charges**

Tribunal Members : **Judge I Mohabir
Mr R Shaw FRICS**

**Date and venue of
Determination** : **13 July 2016
10 Alfred Place, London WC1E 7LR**

Date of Decision : **13 July 2016**

DECISION

Introduction

1. This is an application made by the Applicant company under section 94(3) of the Commonhold and Leasehold Reform Act 2002 (as amended) (“the Act”) for a determination of the amount of any accrued uncommitted service charges payable by the Respondent.

2. The Respondent is the freeholder of the property known as 9 Strahan Road, London, E3 5DA (“the property”). It is comprised of 2 maisonettes, which are subject to long leases. The leaseholder of the upper flat (9B) is Mrs Valerie Scott. The former leaseholder of the lower flat (9A) was Mr Jonathan Sloan who we understand assigned the lease of the flat on 30 September 2014. As part of the sale, he paid his outstanding service charge contribution for the year ended 2014 in the sum of £373.22.

3. The factual background that gives rise to this application is set out in the statements of case filed by both parties and contained in the hearing bundle. It seems that Mrs Scott considered the estimated service charge demands issued for the years ended 2014 and 2015 were unreasonable and made an application to the Tribunal for a determination as to that matter. However, on or about 30 January 2015, a settlement was reached between her and the Legal Consultant acting for Peverel Property Management, who was acting on behalf of the Respondent, to compromise the application. The terms agreed were that, any service charge liability (and any other additional administrative costs) Mrs Scott had for the years ended 2014 and 2015 would be cancelled. As part of the terms of the settlement, it was also agreed that Mrs Scott would also receive a credit of £250 to her service charge account in respect of a general maintenance service charge contribution for the year 2015. In other words, her only service charge liability for that year had been extinguished by applying the credit to her service charge account. No monies had to be paid by the Respondent.

4. On 30 October 2015, the Applicant acquired the right to manage the property.
5. By an application dated 4 May 2016, the Applicant made this application to the Tribunal seeking a determination that the balance of the uncommitted service charges in the sum of £523.22 be paid to it. This is comprised of the overpayment of £373.22 made by Mr Sloan prior to the sale of his flat and the £150 credit payable to Mrs Scott as part of the terms of her settlement.
6. On 13 May 2016, the Tribunal issued Directions that included a direction for this case to be decided by way of a paper determination.

Decision

7. The Tribunal's determination took place on 13 July 2016 and was based solely on the statements of case and documentary evidence filed by the parties.
8. Section 94(1) of the Act imposes a duty on a landlord to pay any uncommitted service charges to a RTM company on that date or as soon as possible after it acquires the right to manage a property. In this instance that date was 30 October 2015. Prior to this date, the Applicant has no entitlement to any committed service charge monies.
9. Having carefully considered, in particular, the correspondence passing between Peverel Property Management and Mrs Scott in relation to the terms of her settlement, the service charge bank statements provided and the service charge accounts for each of the leaseholders, the Tribunal makes the following findings:
 - (a) that the service charge overpayment of £373.22 made by Mr Sloan is a committed service charge because it is a sum that has to be refunded by the Respondent to him. The Tribunal notes that the management company, First Point Ltd, is actively

seeking to refund this amount to Mr Sloan. The obvious point to be made here is that the service charge bank account balance as at 30 October 2015 was only £244.46. However, that discrepancy is a matter for Mr Sloan and the Respondent. It is not a matter for the Applicant, as it is not entitled to this money.

(b) that Mrs Sloan's service charge account should not have received a payment of £150 from the Respondent because her account had in fact been credited by this amount by her service charge liability being extinguished for 2015. This can be seen from her service charge statement of account in the hearing bundle giving rise to a nil balance for the years 2014 and 2015 including the waiver of an administration charge of £60.

10. Accordingly, the Tribunal concluded that there are no uncommitted service charge account monies payable by the Respondent to the Applicant.

Judge I Mohabir

13 July 2016