

Y Tribiwnlys Eiddo Preswyl

**Residential Property Tribunal Service (Wales)
Leasehold Valuation Tribunal (Wales)**

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**DECISION AND REASONS OF LEASEHOLD VALUATION TRIBUNAL
Landlord and Tenant Act 1985, s.27A**

Premises: 29 Taliesin Court, Chandlery Way, Cardiff, CF10 5NH (“the premises”)

RPT ref: LVT/0014/07/20

Hearing: 10th December 2020

Applicant: Habeeb Adeokun

Respondent: Century Wharf (One) RTM Company Limited

Tribunal: Mr JE Shepherd
Mr M Taylor MRICS
Ms C Calvin-Thomas

Order

The Applicant’s application is dismissed. The Applicant shall pay the Respondents costs £500

Introduction

1. The Tribunal are dealing with a determination as to the reasonableness of service charges. The matter was dealt with on the papers following consent from the parties.

The Application

2. In his application dated 16th June 2020 the Applicant sought to challenge service charges which have already been paid on his behalf by his mortgage company. He is the leaseholder of 29 Taliesin Court, Chandlery Way, Cardiff, CF10 5NH. His lease is dated 12th December 2003. His landlord is Century Wharf (One) RTM Company Limited. Their agents are Warwick Estates. The Applicant originally named Warwick Estates as Respondent but he says that this was resolved by a further application.

The County Court proceedings

3. The Respondent brought proceedings in the County Court on 15th February 2019 in relation to unpaid service charges. They were claiming £3809.13 including fixed legal costs. The Applicant did not respond to the claim and Judgment in Default was obtained on 3rd April 2019. The Applicant applied to set aside judgment on 20 May 2019 on the basis that he had not received the claim form. The application was conceded by the Respondents and directions were agreed. These were endorsed by the court on 2nd September 2019. The Applicant was required to file a defence by 4 pm on 8th October 2019 in default of which judgment would be entered. The Applicant did not file a defence and accordingly Judgment was obtained.

The present proceedings

4. The Applicant then sought to challenge the same sums together with subsequent enforcement costs in the Tribunal naming Warwick Estates as the Respondent. This met with understandable objection by the Respondent who applied to dismiss the claim pursuant to Rule 11 (1) (b) of the Leasehold Valuation Tribunal (Procedure) (Wales) Regulations 2004. This led to the Tribunal giving directions on 13th August 2020 pursuant to Rule 11 (3) of the Regulations warning that the application may be dismissed. Further directions were given on the application to dismiss the claim on 25th August 2020.
5. The Respondents in their statement of case dated 8th September 2020 highlighted a number of deficiencies in the Applicant's case. Most significantly they stated that the Applicant was seeking to relitigate the matters already decided by the County Court. They also challenged whether the Tribunal had jurisdiction to deal with some of the sums claimed namely court fees and legal costs awarded in the County Court. Finally they pointed out that the correct Respondents were Century One and not Warwick Estates.
6. In his response to this the Applicant did not deny that the County Court had determined the validity of the service charges but he said it had not determined if the charges were fair or appropriate. The suggestion being that it was open to him to make an application to the Tribunal in relation to matters already resolved by the County Court. This is a fundamental misunderstanding of the process. The Tribunal cannot re-decide cases already determined by the County Court. Extant cases are sent to the Tribunal by the County Court in order to determine the issue of reasonableness and or payability of service charges as part of the decision making process but once a case is finally determined by the County Court it is then too late for the Tribunal to be involved. In the present case the Applicant did not file a defence in the County Court and Judgment was obtained. If he had wanted the Tribunal to consider the case he should have filed a defence and/or sought a direction that the case be transferred to the Tribunal. In the event he did neither.

7. The Applicant suggests in his response that he did not receive notice of the County Court claim. This may be true in relation to the initial claim but once the initial judgment was set aside he agreed directions with the Respondents requiring him to file a defence. He didn't comply and is now stuck with the consequences of his own inaction.

Summary

8. The Tribunal have no doubt that the Applicant's case should be dismissed as an abuse of process (Rule 11 (1) (a)). He is seeking to re-litigate matters already determined by the County Court. The additional enforcement costs of £360 are not challengeable in the Tribunal.
9. The Respondents seek their costs of £586.60 incurred in defending the application. They are per se entitled to their costs under Schedule 12, Para 10 (2) (a) to the Commonhold and Leasehold Reform Act 2002, but the costs are limited to £500 (Para 10 (3)).

Dated this 12th day of January 2021

Judge Shepherd