

Y TRIBIWNLYS EIDDO PRESWYL  
RESIDENTIAL PROPERTY TRIBUNAL (WALES)  
LEASEHOLD VALUATION TRIBUNAL

**Reference:** LVT/0024/09/21

In the matter of premises at No 1 first floor flat, the Clifton Flats, 1 Vaughan Street, Llandudno, LL30 1AB

In the Matter of an Application under Section 27A of the Landlord and Tenant Act 1985

**Applicants:** David Pritchard and Colin Joseph Flannigan

**Respondent:** Mr Finton Barber

**Tribunal:** Tribunal Alison Scott (chair)  
Neil Martindale (FRICS)  
C Calvin Thomas (lay member)

**Observer:** R Price

**DECISION**

Service charge demands dated 2 April 2019 (re-served on 4 February 2022) in the sum of £1002.13, 14 March 2020 (re-served on 4 February 2022) in the sum of £1,219.90 and 16 April 2021 (re-served on 4 February 2022) in the sum of £1,192.51 were validly demanded and served on the Respondent and are payable by the Respondent. The sums demanded were reasonably incurred and reasonable in amount.

**BACKGROUND**

1. The Applicants are the joint freeholders of the Clifton Flats at 1 Vaughan Street, Llandudno, LL30 1AB, including Flat no 1, first floor flat (the Property), which is leased to the Respondent pursuant to a lease dated 30 May 1975 (the Lease) for a period of 999 years which the Respondent had purchased in 2003.
2. On 22 September 2021, the Applicants applied to the Residential Property Tribunal for a determination as to liability to pay and reasonableness of variable service charges for the years 2019, 2020 and 2021 pursuant to Section 27A of the Landlord and Tenant Act 1985 (the Act).

An application may be made to a Leasehold Valuation Tribunal for a determination whether a service charge is payable and, if it is, as to—

- (a) the person by whom it is payable,
- (b) the person to whom it is payable,
- (c) the amount which is payable,
- (d) the date at or by which it is payable, and
- (e) the manner in which it is payable.

3. The Applicants had sent written demands for the services charges on 2 April 2019, 14 March 2020 and 16 April 2021. The demands were re-sent on 14 October 2021 with prescribed information pursuant to Section 21B of the Act. The service charges were calculated in accordance with Clauses 1, 3 (k) and Schedule 4 of the Lease. The leaseholder of the Property was liable to pay 1/8 of the total expenses of maintaining the building and insurance. The demands were for £1,002.13, £1,192.51, and £1,219.90 for 2019, 2020 and 2021 respectively. The Applicants produced receipts for some of the expenses, which included insurance, cleaning of the common parts, electricity, repairs to the exterior, electric testing, fire tests, contingency and management fees.
4. On 28 September 2021, amended on 22 October 2021, a Procedural Chairman gave Directions for the parties to file statements of case and, so far as the Applicants were concerned, accompanied by a copy of the Lease and a witness statement setting out how the service demands had been calculated together with all the relevant invoices.
5. The Applicants complied with the Directions on 5 November 2021. The Respondent did not. All paperwork sent to the Respondent was returned to the Residential Property Tribunal marked "not called for". A Procedural Chair reviewed the papers and made Directions on 3 February 2022 directing that the Applicants were to file submissions by 24 February 2022 on the validity of the service charge demands in the light of the Service Charges (Summary of Rights and Obligations, and Transitional Provisions) (Wales) Regulations 2007 (the Regulations). This provides that the prescribed form which is to accompany a demand for service charges is required to be in both English and Welsh.
6. The Applicants served a further statement of case on 9 February 2022, attaching copies of the service charge demands which had been served on the Respondent again on 4 February 2022, this time with the prescribed Notices in English and Welsh.
7. On 12 April 2022, the Applicant's representative, Mr Beetson, served a Skeleton Argument, referring to the terms of the lease which gave the freeholders the right to charge service charges and to the demands served for the sums set out in paragraph 2 above. Mr Beetson asserted the sums claimed were reasonably incurred and reasonable in amount. Since the sums demanded had not been disputed, Mr. Beetson referred to the English case of *Enterprise Home Developments LLP v Adam [2020] UKUT 151(LC)* pursuant to which, where a party disputing the reasonableness of sums claimed has established a prima facie case and the sums claimed do not appear unreasonable and there is only very limited evidence that the same services could have been provided more cheaply, the FTT is not required to adopt a sceptical approach.

## INSPECTION

8. Due to the Covid 19 pandemic, only the Surveyor member inspected the Property on 12 April 2022. Assisted by one of the Applicants, Mr. Martindale inspected the common parts of the building, which is a corner block consisting of a shop on the ground floor and 8 one-bedroom flats. Each owner of the freehold owns 2 flats. The flats are generally holiday lets. The building and common parts were in a fair condition, in need of some refreshing.

## HEARING

9. The hearing scheduled for 13 April 2022 had to be cancelled at short notice due to illness of one of the panel members. The reconvened hearing took place on 30 May 2022 via the Tribunal's cloud video platform.
10. The Applicants were represented by Mr. Beetson and Mr. Flannigan attended to give evidence. The Respondent did not appear. The Applicants had made concerted efforts to locate the Respondent, including instructing tracing agents to try to locate the Respondent at his address in Ireland and making searches in Dublin newspapers for relatives. All other leaseholders have paid the service charges. Mr. Flannigan used the contingency fees paid to fund repairs as and when necessary and the management fees charged were less than those charged to him by freeholders of other properties where he is the leaseholder. The amount charged for the Insurance through the service charge was more than the invoiced amount. Mr. Flannigan pointed out that the terms of the Lease allowed him to make a profit. In any event, the extra amounts charged were spent on maintenance of the building. The service charges were only just sufficient to cover the total expenditure, particularly since the Respondent had not paid service charges owed for the last 3 years.

## FINDINGS

11. The service charges demands had been properly served on the Respondent in accordance with the Regulations and had been properly demanded in accordance with the Act and pursuant to the provisions of the Lease. The Tribunal was satisfied the sums demanded were payable and reasonable.

Chair: Alison Scott

This 16<sup>th</sup> day of June 2022