

## **Residential service charges**

### **Case update: The landlord's name and address and demands**

On 8 May 2012, the Upper Tribunal (Lands Chamber) (i.e. the Lands Tribunal) decided an appeal from the Leasehold Valuation Tribunal and held that service charges claimed in the case were not payable because an inadequate address for the landlord had been specified in the demand.

In *Breitov Properties Limited v Martin* [2012] UKUT 133 (LC), the Tribunal considered in detail the language of section 47(1) Landlord and Tenant Act 1987. It says:

“Where any written demand is given to a tenant of premises to which this Part applies, the demand must contain the following information, namely—

- (a) the name and address of the Landlord, and
- (b) if that address is not in England and Wales, an address in England and Wales at which notices (including notices in proceedings) may be served on the landlord by the tenant”

The relevant parts of section 47(2) say:

“Where—

- (a) a tenant of any such premises is given such a demand, but
- (b) it does not contain any information required to be contained in it by virtue of subsection (1),

then... any part of the amount demanded which consists of a service charge or an administration charge (“the relevant amount”) shall be treated for all purposes as not being due from the tenant to the landlord at any time before that information is furnished by the landlord by notice given to the tenant.”

(“Demand” means a demand for rent or other sums payable to the landlord under the terms of the tenancy

In practice, many residential property service charge demands specify as the landlord's address that of the managing agent. Frequently that is not the actual address of the landlord.

The Tribunal applied a very strict and literal interpretation of section 47(1) and noted that it required that the actual address of the landlord be specified on the demand, and that if that address was not in England and Wales, then a further address was to be specified being one at which notices (including notices in proceedings) could be served on the landlord by the tenant.

As the agent's address had been specified in the *Breitov* case, the service charges claimed were not due.

The consequences of such an outcome can be readily appreciated: there might be an adverse costs order, unnecessarily incurred costs and, if the passage of time is against the landlord, a new and valid demand may be impossible.

Clearly it is important, therefore, to ensure that if existing demands do not have the actual address of the landlord, that information is provided as soon as possible, and that the correct information is included in future demands. If the actual address is not in England and Wales, an additional address must be given too.

For the full judgment (which is only five pages long) go to this link:

<http://www.landtribunal.gov.uk/Aspx/view.aspx?id=852>

At the time of preparing this note, it is not known whether there will be a further appeal.

If you have any queries about the case or want to discuss service charge recovery, please contact:

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