HM Courts & Tribunals Service

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Residential Property TRIBUNAL SERVICE

LONDON RENT ASSESSMENT PANEL

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION UNDER SECTIONS 27A & 20C OF THE LANDLORD AND TENANT ACT 1985

Case Reference:	LON/00AE/LSC/2012/0064 & 0155
Premises:	Flats 2 & 4, 571-573 Kinsbury Road, Kingsbury, London NW9 9EL
Applicant(s):	Smithson Limited
Representative:	Mr Daniel Dovar, Counsel Mr A Tilsiter of Aprirose Limited, Managing Agents for the Applicant
Respondent(s):	Mr N Desai (case no 0064) Miss S Retzman (case no 0155)
Representative:	Mr Desai represented himself Mr R O'Hara for Miss Retzman
Date of Hearing:	30th May 2012
Leasehold Valuation Tribunal:	Mr A A Dutton – chair Mr M Cairns, Mr J E Francis QPM
Date of decision:	22nd June 2012

Decision of the Tribunal

The Tribunal determines that Mr Desai is liable in respect of the insurance premiums for the years in dispute, a management fee of £50 and a contribution of £250 towards the repair costs making a total of £2,370.45, of which £595.83 is now due and owing (being the invoices dated 3rd May and 22nd June 2007) the balance being irrecoverable until such time as the Applicants comply with Section 21B of the Act.

The Tribunal determines that insofar as Mrs Retzman is concerned, that she owes the Applicant the sum of £1,777.62 in respect of the insurance, £50 contribution to management and recent works of a cost of £250 but again such sum is not payable until the Applicants comply with Section 21B of the Act.

The Tribunal determines that an order pursuant of Section 20C should be made it being just and equitable in the circumstances and for the reasons set out below.

The Tribunal makes no order with regard to the refund of any fees incurred by the Applicants in commencing these applications or in respect of the Hearing, again for the reasons set out below.

Background

1. The hearings in respect of these two applications came before us on 30th May 2012. The application against Mr Desai was dated 19th January 2012 and the application against Mrs Retzman dated 22nd February 2012. In both cases the Applicants, Smithson Limited through its managing agents Aprirose Limited sought to recover insurance premiums, in the case of Mr Desai from 2006 onwards and in the case of Mrs Retzman from 2008 onwards. In addition both applications sought to recover the management charge for year 2011 of £125. During the course of the proceedings the Applicant also sought to extend the scope of the application to include some additional works to the flat roofs and rainwater goods, notice of which was not given to the Respondents until 23rd February 2012 the same day as a quotation was received from Triumph Press setting out the works which were to be undertaken at a total cost of £3,850 plus VAT. This quotation had been based upon a schedule of defects which had been prepared, it seems, in January of this year.

2. Prior to the Hearing we had been supplied with a bundle of documents which included the following:-

   - The directions and applications in both cases.
   - Copies of the Respondents' leases.
   - Statements of cases prepared by Mr Tilsiter on behalf of the Applicant.
   - Details of the insurance arranged for the property.
   - Responses lodged by both Mr Desai and Mrs Retzman together with supporting papers.
   - A reply by the Applicants to the Respondents' responses.
   - A statement by Mr Tilsiter with exhibits.

- A statement by Mrs Retzman.

These documents had been read by us but prior to the Hearing.

Hearing

3. Mr Dovar on behalf of the Applicants opened the case and took us to certain sections of the lease which dealt primarily with the insurance arrangements and the accounting arrangements. He told us that the Applicant's primary case was that although there had been over insurance the cost of same had not increased the premium. Indeed the evidence he said was that a bespoke policy in accordance with the terms of the lease could be more expensive. He said that the comparable insurance provisions put forward by the Respondents were unreliable and that the insurance premiums charged by the Applicants were reasonable and payable. On the question of the management charge he told us that this was well within the sum permitted by the terms of the lease.

4. At this point it is perhaps helpful to refer to the various lease terms. We were provided with copies of both Mr Desai and Mrs Retzman's leases which appeared to be in all material respects identical. The provision for the insurance arrangements are contained at paragraph 1(f)(ii) which states as follows:

"(ii) From time to time a sum of money equal to the amount which the lessor may expend in effecting or maintaining the insurance of the demised premises and all additions thereto and the lessors fixtures and fittings:-

(a) against loss or damage by fire, lightning, thunderbolt, explosion, aircraft (not being hostile aircraft) and other aerial devices and things dropped therefrom, storm, tempest, flood, bursting and overflowing of water tanks, apparatus and pipes, riots, strikes, civil commotion, labour disturbance and malicious persons and impact damage;

(b) at all times during the said term as Great Britain shall be engaged in war with another power or powers against loss of damage by hostile aircraft or other aerial devices or any damage incidental thereto under any Government scheme of insurance in respect of war damage to premises which may for the time being in force or if there shall be for the time being no such Government scheme then in an office or combination undertaking such class of business;

(c) in such sum as the lessor surveyor shall from time to time approve against compensation which an owner of property may become legally liable to pay to the third party including any liability under the Defective Premises Act 1972."

5. The lease at sub-paragraph 1(f)(iii) states that the lessee shall on demand pay a fair proportion of the aggregate of the following sums which are then listed and include at sub-paragraph (c) an annual amount in respect of the employment of a managing agent. The fee for the managing agent is calculated on the following basis *"not being less than £50 per annum for each*

flat being the aggregate of the sum equal to 10% of the gross value from time to time for rating purposes of the property (or other appropriate substitute value) (including all the flats comprised in the buildings) and a sum equal of 10% of all monies expended during the year in respect of the matters referred to in sub-paragraphs (a) and (b) of this clause." The lease goes on to enable the lessor to apply to the president of the RICS to fix an increased fee if the amount is insufficient on a seven yearly cycle.

6. The lease contains the usual repairing obligations and contains at clause 4 the lessor's covenants. At clause 4(3) the following wording is to be found:

"(3) at all times during the term to insure the building and all additions thereto and the landlord's fixtures and fittings in respect of the matter referred to in clause 1 hereof in the following insurable value thereof (and in case of dispute the determination of the lessor's surveyor as to what is the full insurable value of the property shall be conclusive) in some insurance office of repute or at Lloyds and at the expense of the lessee to provide the lessee with a copy of or a sufficient extract of such policy as he may require so as to inform himself of the nature and extent of the cover provided thereby and to notify the lessee in writing of any proposed modification or addition..."

7. It is the Applicant's case that if the insurance policy exceeds the terms of the lease then clause 4(3) allows the policy terms to be extended upon notifying the parties in writing.

8. Mr Tilsiter was then called to give evidence and confirm that the statements of case and his witness statement were true. He dealt firstly with the additional works and took us to the invoice from Triumph Projects dated purportedly 14th January 2012 in the sum of £4,140 which was divided as to 50% to the commercial premises and 50% to the residential premises. It is appropriate to record the layout of the property which is a three storey corner block. At ground floor level there are four commercial units, the largest being occupied by Carphone Warehouse and three units in Fryent Way which comprise a pub, an estate agents and launderette. The residential premises are on the first and second floor above these commercial outlets and access to those is gained from a service road to the rear which is not within the ownership of the Applicant.

9. Mr Tilsiter exhibited a letter from S I Property Consultants dated 30th January 2012 which highlighted four matters that required urgent attention, three of which were in fact undertaken by Triumph and formed the basis of the invoice. The date of the invoice must be wrong. The quotation is not dated until the end of February and accordingly an invoice in January would appear to be erroneous although Mr Tilsiter could throw no light on this. He had said that the invoice had been paid within days of production, the costs had been capped at £250 per leaseholder although on a proper apportionment the amount payable by each leaseholder would be slightly more than that. Insofar as these works were concerned, he confirmed that those had been completed

and took about a week and that he had inspected them in the course of the works being carried out.

10. He told us that he carried out the day to day management of the property and that the Applicants were the long leaseholders of Flat 1 presently rented out on an assured short tenancy at £1,150 per month. He confirmed that a certain amount of management involved the commercial premises. In answers from questions raised by Mr O'Hara he accepted that despite what was said in his witness statement Mrs Retzman was entitled to challenge the service years even though she had paid for the insurance in 2006 and 2007. He was of the view that the ability to give notice to the leaseholders in writing of any changes to the insurance arrangements was not a formal notice, the requirements for which were set out in clause 7 of the lease. He made the point that clearly both Mr Desai and Mrs Retzman were aware of the insurance arrangements as they had been questioning those from 2006 onwards. He did accept, however, that the cover in place was wider than that contained in the lease. He could not help us with the previous insurance arrangements from Egan Lawson who had been the previous owner's managing agents. It appeared that they had only been charging the Respondents £75 per year for some period of time. He pointed out, however, that there had been two substantial claims made in 2006, the year that the Applicants acquired the property, one of which related to water leakage and another to a personal injury claim. The accuracy of the personal injury claim was disputed by the Respondents but they were not able to produce any evidence to show that this was an erroneous or false claim. It was accepted by Mr Tilsiter that the premium had gone up substantially since the Applicant acquired the property but he confirmed that the brokers would have received a valuation for the property, copies of the leases with plans and rent schedule and any other documentation they needed to be able to provide the insurance quotation. He said that he could not compare the insurance with that which had previously been affected by the previous owner as he did not have those details. He was, however, surprised that the insurance previously arranged had remained at £75 for a number of years.

11. As to the management fees he thought a charge of £125 was fair and reasonable and had been put in place in 2011 which is when he personally took over the management of the block. He had seen that no management charge had previously been made so decided to put in a claim for that year. He confirmed that there was no written agreement with Smithson and that indeed Aprirose were an in-house company acting as agents. He told us that he was fairly familiar with the RICS Service Charge Residential Management Code. It appeared that the invoice for the management had only been lodged the day before the application was made to the Tribunal in respect of Mr Desai. It was at this point that Mr Tilsiter confirmed that none of the demands that had been issued over the years complied with the provisions of Section 21B of the Act. This included both the demands for the insurance, the management fee and the fee relating to the recent building works.

12. After a short break Mr Desai then asked Mr Tilsiter some questions. We were referred to a letter from Codogan Keelan Westall to Mr Tilsiter of 30th March 2012. This letter was from a Mrs Nicky Pryor, an account executive with that company and confirmed a number of points concerning the insurance. It stated at the fifth paragraph *"Policies which are designed for property owners all aim to provide a level of cover which is wide enough to protect the insured rather than restricting cover to limited insurance perils. These policies are standard in the insurance market. As the policies are constructed in this way they contain additional benefits that come as standard and which do not affect the level of premium. Indeed if a specific policy to restrict cover to the perils defined in the lease were available, it is unlikely that there would be a premium saving due to the additional underwriting required to construct a non-standard policy wording. In this case all the risks under the heading "Additional Benefits" (2-13) of Mr Desai's statement are included in the policy as standard. Indeed I understand that the AXA policy quoted as a comparable by Mr Desai has several additional perils listed".* The letter went on to deal with terrorism and business interruption cover and in a schedule attached had extrapolated the figures relating to these two issues from the remaining insurance premium. The letter went on to say *"It should be noted that not all insurers are willing to offer cover for mixed use buildings and any comparative quotation obtained would need to be based on the insurer having been made aware that there is a retail element to the property and the fact that they are being asked to quote on individual flat or flats. Furthermore, there has been some claims history in relation to this property and this can affect the level of premiums quoted or whether an insurer decides to quote at all. I can also confirm that no commission has been paid to the landlord in respect of this insurance transaction."* The letter went on to deal with the question of the apportionment of insurance costs between mixed use properties. Presently the arrangements are that the commercial premises bear 50% of the costs and the residential the balance which is divided between each flat on a straight 6.25% basis. Although this was challenged by the Respondents no evidence was produced to show that this apportionment was incorrect and indeed it appears it followed on from the apportionments carried out by the previous owners. Mr Tilsiter was also asked why the invoice seeking the recovery of the insurance for July 2011 onwards was not sent out until January 2012 but there seemed to be no mystery other than it had been overlooked.

13. Mr Desai then asked Mr Tilsiter about the management provisions and the cost associated therewith and asked what actually had been done in managing the property as no works had been carried out until this year.

14. Mrs Retzman relied on her response as set out in the papers before us and told us that she and Mr Desai were the only long leaseholders who presently lived at the property. The property had been the subject of a number of problems - particularly with the pub which appears to have been a newish addition to the commercial outlets. She felt that the property had deteriorated and that there had been encroachments over the common areas which affected the stairs and access to her property. She denied that she had received copies of the insurance schedules each year and knew no reason

why the increase in the premiums should have taken place to the extent that it had. She had paid the insurance for 2006 and 2007 but had disputed those for some time. She did, however, accept that the claims history would affect the premium.

15. On the question of the current works, she thought that these had been largely caused by works undertaken by Carphone Warehouse in 2006. She was not satisfied that the works had been done properly.

16. After the luncheon adjournment Mr Desai gave his evidence stating that he felt he should only be liable for the basic insurance as set out in the terms of the lease. There were he said provisions in the insurance policy for matters that would never affect him, for example loss of rent and terrorism. He thought that the notice to increase the insurance cover had to comply with the specific provisions relating to Notices contained in the lease. On the question of management, he did not understand why the commercial premises were not being charged and why the management fee was being charged for 2011 when nothing had been done. He complained that he had been pursued for payment of the various demands by debt collection agencies and that the management invoice had only been raised when Mr Tilsiter had put in hand certain repairs.

17. When cross examined he like Mrs Retzman though that the works that were recently being carried out were required only as a result of inadequate works that Carphone Warehouse had commissioned. He accepted, however, that he had received the quotation and the schedules setting out what was to be done and he also accepted that the building was in disrepair and that works were needed and that the Applicant was entitled to charge for the costs of the repairs under the terms of the lease. He confirmed that he had made no payments in respect of the insurance since 2006, he said because he was challenging the sums claimed. The quotations he had obtained indicated a premium in the region of £144 and he was asked why he had not paid at least that amount. He, however, thought that this was for his flat on an individual basis and that if a block policy had been obtained it would have been even less. He confirmed that he had not been able to give the on-line comparison website details of the property or the claims history to obtain the comparable quotes. On the question of management he did think that he should perhaps pay £50 as provided for in the lease.

18. In final submissions to us Mr Dovar reminded us that Section 21B did not come into force until October of 2007 and would not therefore affect the demands for insurance in respect of the years 2006 and 2007 which appeared to have been demanded of Mr Desai under documents dated 3rd May 2007 and 22nd June 2007. It was accepted, however, that in respect of Mrs Retzman it covered all the demands. Mr Dovar accepted that some of the risks covered by the present policy of insurance fell outside the terms of the lease but that notification had been given in accordance with clause 4(3) and the Applicant relied on the production of the Certificates of Insurance in the years 2006 and 2007, the more so as both Respondents had been able to

challenge the insurance premiums from that time and clearly therefore knew that there had been changes. He said it was good practice for the insurers to cover the additional risks and that there had been no additional expense to the Respondents. It was he said curious that for the five years prior to the Applicants taking over the property the insurance had only been £75 per leaseholder but clearly the claims in 2006 had had a significant impact. As to the question of apportionments, he relied on Mr Tilsiter's witness statement and some emails from some local agents confirming the division between residential and commercial. The residential section of the property was larger than the commercial and the Applicants had merely followed the apportionment which was historic.

19. The management fee was for the year 2011 only and he confirmed that the rateable value of the commercial units itself gave sufficient sum to justify a charge in excess of £125 per flat. He said it was irrelevant that there was no charge made to the commercial element and that the charge to the residential properties was reasonable.

20. As to the additional works, it was said that the Applicant had wanted to deal with these matters as one for the purposes of proportionality. It was felt by the Applicants that the Respondents would have challenged the sums whatever and therefore to deal with them in one go made sense. There appeared to be a general complaint that the Carphone Warehouse had undertaken works in 2006. However, the fact of the matter was that the works that were undertaken this year were relatively modest, as was the sum claimed, and that there had apparently been a further quote obtained a while ago by Carphone Warehouse which was substantially in excess of that which the Applicants relied upon.

21. Mr Desai queried whether the claims history actually related to the property and made further complaints that he had not received responses to letters that he had sent to the Applicant. He thought that Aprirose should behave in a fair and reasonable way and that they should attempt to discuss matters which the Applicants.

22. Mrs Retzman through Mr O'Hara thought the insurance increase was too great and that she had not received any insurance monies in respect of the works of repair required to her flat. She had in her witness statement set out in great detail the problems that she had had with the property and the landlord's failings in relation to repairs but as we indicated to her at the start of the hearing these were not matters that we could deal with as they appeared to relate to breaches of covenant for repair by the landlord which should be pursued through the County Court. Accordingly we did not take evidence from her on these issues and although her witness statement covered these matters in great detail it is not something that we considered at the Hearing.

23. Mr Dovar indicated that he would be seeking to recover the costs of the proceedings although fairly accepted that there seemed to be no particular provision in the lease to enable him to do so but reminded us that the

Respondents had failed to pay any sum towards the insurance for five or six years. After the hearing Mr Tilsiter contacted the Tribunal indicating that he would wish for reimbursement of the fees for the application and the hearing fee.

The Law

24. The law relevant to this matter is set out on the attached appendix.

Findings

25. Firstly we should say that we did not think an inspection of the property would have been of any assistance to us. We had been provided with a number of photographs which gave us an indication as to the layout of the premises and the state of repair. We will deal firstly with the insurance provisions.

26. The evidence we received was that the apportionment of the premium between the commercial and residential properties was somewhat historic. Mr Tilsiter in his witness statement had produced emails from other managing agents which appeared to indicate that there was a fluctuation in how the apportionment between commercial and residential properties was determined. He also provided us with a copy of the guidance for commercial property managers which indicated that there were a number of ways in which the premium could be apportioned which could include floor areas. On the basis that the evidence before us, which was not contradicted, was that the commercial premises were slightly smaller than the residential premises, it seemed to us that a split as to 50% for the commercial premises and 50% for the residential premises was reasonable. We noted that there was no differentiation in the residential premises between two and three bedroomed properties but we accept that the changes would be small if that were pursued and for the sake of the historic division between commercial and residential it seems to us that the apportionment on a 50:50 basis is fair and reasonable and the division between the residential properties also fair and reasonable

27. We turn then to the insurance itself. There is no doubt that the wording of the lease places a limit on the items that can be insured. As we pointed out to the parties at the hearing, mortgagees would find the omission of matters such as subsidence, heave and landslip from the risks unacceptable. Mr Desai does have a mortgage although Mrs Retzman does not. We accepted the evidence from the brokers that the premium was not increased as a result of the additional risks. We accept also that the provisions of clause 4(3) require nothing more than written notification of the insurance cover that has been put in place. In our findings to 'notify in writing' is not the same as to provide a Notice for which specific provisions are set out in paragraph 7 of the lease. Accordingly in sending to the parties the insurance schedules which we accept were done for 2006 onwards, then notice has been given. There is a question of course as to whether the notice could be backdated and be effective. In 2006 we understand that the insurance schedule was sent at the end of the

year when the increased insurance had already been put in place. However, given our findings that the additional benefits do not of themselves affect the level of the premium, it seems to us that the premiums throughout are reasonable and are payable. We say so having considered the comparable evidence put forward by Mr Desai which with respect to him is of no assistance to us at all. We appreciate it may be difficult to obtain comparable cover but to try and do this through a comparison website and only on the basis that you are insuring a flat without any explanation as to the nature of the premises or the claims history leads to a comparable which we cannot rely upon. We accept that the Applicant is instructing brokers to go to the market to obtain a premium, we had the benefit of the letter from the brokers, and given the claims history of the property we did not think that the premiums charged of Mr Desai and Mrs Retzman were in any event too high.

28. Insofar as the management fee is concerned, whilst we accept the submissions that the sum claimed of £125 falls easily within the amount allowed, we do find that the management of the premises has been pretty woeful. Until Mr Tilsiter took over in 2011 no management charge had been rendered and we suspect probably quite rightly. Although we are not able to deal with Mrs Retzman complaints it does seem that there has been a neglect of repair or requirements to the property both to her flat and to the building itself. Things may change with Mr Tilsiter, who struck us as a more hands-on manager, although we do find his initial approach overly aggressive. This is particularly so in issuing proceedings to the Tribunal on the same day that demands were made of Mr Desai and pursuing the matter knowing that Section 21B had not been complied with. We propose, therefore, on behalf of both Mr Desai and Mrs Retzman to allow a fee of £50 for the management in 2011 but if the management continues in the hands of Mr Tilsiter as it has done to date, then it would seem to us that a charge of £125 for 2012 would be perfectly reasonable.

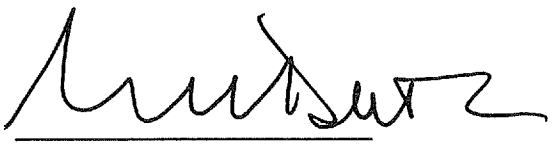
29. We should of course point out that none of this money save for the first two years of the insurance premium for Mr Desai are immediately recoverable. Section 21B of the Act has not been complied with and until it is the demands remain unenforceable.

30. We then turn to the question of costs. As was accepted by Mr Dovar we can see no particular provision in the lease that allows costs of these proceedings to be recovered by the landlord. In any event, we would be unwilling to make such an allowance. These proceedings were commenced, it seems to us erroneously, given the failing to comply in most cases with Section 21B and indeed before invoices had been levied. In those circumstances we conclude that the Applicant should not be able to recover the costs of these proceedings through the service charge regime and accordingly make an order under Section 20C of the Act considering it just and equitable so to do.

31. Mr Tilsiter's request for reimbursement of the fees came after the hearing had concluded. Even if we were minded to consider the matter, it seems to us for the reasons that we have made an order under Section 20C, the Applicant's

ability to recover the costs of the application and the hearing fee should also be barred. As a matter of comment, we would say that management was somewhat below that recommended in the RICS Code – in particular a lack of a written management contract,(para2.1); dealing promptly with enquiries from tenants (para 2.4); appropriate, courteous, timely and expeditious communications with tenants (paras 3.4,3,10 & 3.11)

32. We trust that Mr Tilsiter will acquire a copy of the code if he does not have one and will in the future follow same. It must be in all parties' interests to have the building properly managed, properly repaired and maintained and we hope henceforth the parties will be able to work together to ensure that that is the case.

Chairman: 

A A Dutton

Date: 22nd June 2012

Appendix of relevant legislation

Landlord and Tenant Act 1985

Section 18

(1) In the following provisions of this Act "service charge" means an amount payable by a Tenant of a dwelling as part of or in addition to the rent -
   (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the Landlord's costs of management, and
   (b) the whole or part of which varies or may vary according to the relevant costs.

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the Landlord, or a superior Landlord, in connection with the matters for which the service charge is payable.

(3) For this purpose -
   (a) "costs" includes overheads, and
   (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
   (a) only to the extent that they are reasonably incurred, and
   (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;
   and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 27A

(1) 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.

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to a Leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs, maintenance,

improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -

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

(4) No application under subsection (1) or (3) may be made in respect of a matter which -

(a) has been agreed or admitted by the Tenant,
(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the Tenant is a party,
(c) has been the subject of determination by a court, or
(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the Tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

Section 20C

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or leasehold valuation tribunal, or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.

(2) The application shall be made—

(a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
(aa) in the case of proceedings before a residential property tribunal, to a leasehold valuation tribunal;
(b) in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation tribunal;
(c) in the case of proceedings before the Upper Tribunal, to the tribunal;
(d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.

(3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

S21B Notice to accompany demands for service charges

(1) A demand for the payment of a service charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charges.
(2) The Secretary of State may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.

(3) A tenant may withhold payment of a service charge which has been demanded from him if subsection (1) is not complied with in relation to the demand.
(4) Where a tenant withholds a service charge under this section, any provisions of the lease relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.
(5) Regulations under subsection (2) may make different provision for different purposes.
(6) Regulations under subsection (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.