1036

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case Reference	:	LON/00BJ/LSC/2014/0401
Property	:	23B Ryde Vale Road, Balham, London SW12 9JQ
Applicant	:	Mr Dave Stewart
Representative	:	In person
Appearances for Applicant:	:	Mr Stewart
Respondent	:	Target Performance Limited
Representative	:	Russell-Cooke, solicitors
Appearances for Respondent	:	(1) Mr Joe Ollech, counsel (2) Mr Stephen Small, solicitor
Type of Application	:	Liability to pay service charges
Tribunal Members	:	(1) Judge Amran Vance (2) Mr M Taylor FRICS

Date and venue of Hearings	:	13th November 2014 at 10 Alfred Place, London WC1E 7LR
Date of Decision	:	15.12.14

DECISION

Decision of the Tribunal

1. The tribunal determines that, except as stated in paragraph 2 below, the costs of the following buildings insurance premiums paid by the Respondent were reasonably incurred and are payable by the Applicant, by way of service charge, in his apportioned 50% share:

   2008 £1,344.05

   2009 £1,444.54

   2010 £1,444.54

   2011 £1,598.10

   2012 £1,693.87

   2013 £1,759.07

   2014 £1,226.31

2. The tribunal determines that commission received by the Respondent from its insurer for the years 2006 to 2012 inclusive in the total sum of £1,190.91 should be credited to the Applicant's service charge account (in his 50% apportioned share) as that part of cost of the premiums was not reasonably incurred and is not payable by the Applicant.

3. The tribunal makes an order under section 20C of the Landlord and Tenant Act 1985

Introduction

4. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service charges payable by him in respect of 23B Ryde Vale Road, Balham, London SW12 9JQ ("the Property"). The only item in dispute is the costs of buildings insurance incurred by the Respondent for the service charge years 2008 to 2014 inclusive.

5. Although the Applicant made reference to the costs of agents' fees and audit fees in his Application notice he confirmed at the tribunal hearing that these were not under challenge and had been included to show the total service charge costs for each of the years under challenge.

6. At the tribunal hearing the Applicant confirmed that he was not challenging his liability to pay the sums demanded under the terms of his lease. Nor was he pursuing a counterclaim within this Application in respect of sums already paid by him.

7. The Applicant is the lessee of the Property, the upper flat of two flats in a converted Victorian semi-detached house ("the Building"). He purchased the Property in 2004. The lessee of the lower flat is Mr Mike Cookson. Although named as an Applicant in the Application form Mr Cookson did not sign the Application notice

and since the Application was issued has not applied to be joined as an Applicant to the proceedings. Mr Stewart is therefore the sole Applicant.

8. The freehold interest in the Building is vested in the Respondent.

9. An oral case management conference took place on 21st August 2014 and was attended by Mr Stewart. The Respondent did not attend. Directions were issued to the parties on the same day. These directions identified that the service charge years in dispute were 2008 – 2013 inclusive. At the hearing on 13th November 2014 the tribunal agreed to the request made by both parties to include the sum demanded in respect of buildings insurance for the 2014 service charge year (currently an estimated service charge) within the Application.

10. The relevant legal provisions are set out in the Appendix to this decision.

Inspection

11. Neither party requested an inspection and the tribunal did not consider this to be necessary or proportionate to the issues in dispute.

The Lease

12. The Property was initially let under the terms of a lease dated 14th December 1981 entered into by Westervale Limited and Jeanne Margaret Plakhtienko ("the Original Lease") followed by a surrender of the Original Lease and re-grant of a new lease dated 31st August 2006 entered into between the Applicant and the Respondent ("the New Lease"). As far as this Application is concerned the New Lease incorporates all of the relevant provisions of the Original Lease, including the relevant service charge provisions.

13. Clause 5 of the Original Lease provides for the lessee to pay service charge contributions towards a due proportion of the expenses and outgoings properly incurred by the lessor as set out in the Fifth Schedule to the lease. This includes the lessor's costs of insuring the Building in accordance with the lessor's covenants under the lease.

14. The lessor's covenant to insure is set out in clause 6(1) of the lease which obliges the lessor to *"Insure and keep insured.....the Building against loss or damage by fire and such other risks (if any) as the Lessor thinks fit in some insurance office of repute in the full value thereof.."*

The Hearing, Decision and Reasons

15. The tribunal heard oral evidence from the Applicant (although no witness statement from him was included in the tribunal bundle).

16. The hearing bundle included a signed witness statement from Mr John Pollard, a shareholder in the Respondent company and the person responsible for managing the Building. On 7th November 2014 the Respondent's solicitors sent the tribunal a

further signed witness statement, that of Mr Keith Alan Okines. The Applicant did not object to the Respondent being able to rely upon this witness statement in support of its' case and the tribunal considered it appropriate allow it to do so having regard to the relevance of the document to the issues in dispute

17. However, neither Mr Pollard nor Mr Okines attended the hearing. Mr Pollard explained in his witness statements that were both of them were their 70's and that because of health problems he was unable to attend a hearing in London. Mr Okines stated in his statement that he was unable to attend the hearing as he suffered from a chronic illness that meant he was unable to attend any meetings before late afternoon.

18. The tribunal informed the Applicant and Mr Ollech that in reaching its decision it would have due regard to the inability of the Applicant to cross-examine the Respondent's witnesses as well as the tribunal's inability to test their evidence when considering the evidential weight to be given to their witness statements which, in effect, amounted to hearsay evidence.

19. Copies of the following additional documents were provided by the Applicant during the course of the hearing and were added to the tribunal bundle (with the consent of the Respondent who did not object to the Applicant being able to rely on them):

(i) Two tables relating to insurance costs and commission received and one table relating to premiums, renewals and commission

(ii) An analysis of RSA premiums compared to UK market trends.

Background

20. It was common ground that the Respondent purchased the freehold title of the Building in 1983 and that for all years since until 2014 had secured insurance with Royal and Sun Alliance ("RSA"). With effect from 11th February 2014 the insurer changed to Aviva.

21. The following insurance premiums were agreed to have been paid by the Lessor for the service charge years in issue:

2008	£1,344.05	RSA
2009	£1,444.54	RSA
2010	£1,444.54	RSA
2011	£1,598.10	RSA
2012	£1,693.87	RSA
2013	£1,759.07	RSA
2014	£1,226.31	Aviva

22. The Respondent agreed that since around June 2009 the Applicant had been complaining about the amount of the insurance premiums demanded by RSA and

that it only communicated with him by letter as the Respondent Company had no telephone or internet facility.

23. It agreed that the Applicant had provided it with numerous alternative insurance quotes and that he had sought to persuade the Respondent to change insurer to one of the companies that had quoted a lower premium.

24. In 2010 the Building had experienced a subsidence problem that required a claim to be made on the RSA policy in place at the time. It was also common ground that this insurance claim took four years to resolve and that it was impracticable for the Respondent to change insurers during the lifetime of the claim.

The Applicant's Case

25. The Applicant requested that the tribunal determine that the costs in dispute had not been reasonably incurred on the basis that:

(i) The Respondent had not acted reasonably in the manner in which it had obtained insurance renewal quotes; and/or

(ii) The costs were not reasonable in amount; and/or

(iii) The fact that the Respondent had received a commission from the appointed insurance company for the service charge years 2006 to 2012 inclusive was evidence that the costs were unreasonable in amount

26. He contended that the renewal premiums paid to RSA since 1983 had increased by about 6% per annum, from an estimated £521 in 1992 to £1,759 in 2013, and that the cost of those premiums was not competitive. In brief, his case was that the Respondent had failed to seek quotes from alternative insurers and had, instead, just accepted the renewal quotes sought by RSA without taking any steps to ensure they provided value for money. This was despite him providing it with alternative quotes that he had obtained as well as details of brokers that he asserted could assist with obtaining competitive quotes. Moreover, the fact that the Respondent did not use the internet or a telephone in the course of its business meant that they were unable to access the World Wide Web or email and were therefore disadvantaged in obtaining such quotes.

27. The Applicant referred the tribunal to a letter from the Respondent to him dated 20th July 2009 in which it stated that:

> " *We are reluctant to accept any request to get alternative quotes as this would involve our writing many letters to obtain these, comparing the quality of different insurers, then filling in new proposal forms. Further this would set a precedent and we may have to go through this process every single year, each time someone complains about the size of the insurance premium. Currently the service charge does not provide for the cost of all this sort of correspondence, etc."*

28. This concern with setting a precedent was, he asserted, evidence of the unreasonable position adopted by the Respondent in response to his request that it obtain alternative quotes. So too was what he considered to be the Respondent's three-year delay in contacting a broker which he believed did not take place until 2012.

29. It was also his case that "insurers of repute" take advantage to routinely overcharge existing customers. Evidence of this was, that in November 2011 he had spoken to RSA over the telephone, pretending to be a new customer who had quoted a sum of £791, half the sum of the premium paid at that time. His statement of case also quoted from radio programmes and newspaper articles which, he asserted, demonstrated that "loyalty does not pay" in the insurance market. He also relied upon reviews of the market carried out by the AA and consumer websites to support his argument that average insurance costs had been falling in real terms for 10 years meaning that the RSA premium increases were unjustified.

30. He also considered that the fact that the RSA premiums were too expensive was reflected by the fact that when the Respondent finally obtained a quote from a broker (MRIB) in 2014 the premium quoted was £1,226.31, substantially lower than the sums paid to RSA since he purchased the Property. It was his case that this sum was still too high as, in 2014, through the help of a broker, he had obtained a quote for insuring the Building in the sum of £732.65.

31. The Respondent acknowledged in his Statement of Case that the subsidence claim on the policy in 2010 meant that *"Target's hands have been tied since this time with regards to changing insurers....."* However, it was his case that the RSA premium was unreasonably high prior to this claim and that, as such, they had been 'locked-in' to an *"expensive, and arbitrarily-increasing policy"*.

32. As for the commission paid to the Respondent by RSA the Applicant considered that this arrangement meant that there was an incentive to the Respondent to continue to renew the policy with RSA and to allow the premium to remain artificially high.

The Respondent's Case

33. The Respondent's primary contention was that it had, at all times, insured the Building with an office of repute and that this complied with its' obligations under the lease. Mr Ollech submitted that this disposed of the Application but that if the tribunal considered it necessary to determine if the sums paid were reasonable (for the purposes of s.19 of 1985 Act) that the Applicant had failed to prove that they were not. The Respondent accepted that the RSA premiums may not have been the cheapest available in the market but contends that it was not required to "shop around" for the cheapest quote. Even if it had been possible to obtain cheaper quotes this, it says, does not mean that it had acted unreasonably in paying the premiums now being disputed by the Applicant.

34. It also disputed that the alternative quotes obtained by the Applicant were true 'like for like' quotes and that they were therefore of very little use as comparables.

35. It had also acted reasonably, it says, in seeking assistance from MRIB at the time of the subsidence claim who advised that it would not be possible to change to a different insurer whilst that claim was ongoing. Furthermore, once resolved, the recent claim had, according to MRIB, led to problems in finding insurers willing to quote to insure the Building.

36. The witness statement of Mr Okines addresses the issue of the commission received by the Respondent from RSA. Mr Ollech stated that the statement had been provided by way of full and frank disclosure. Mr Okines confirms that the Respondent received commission from RSA in the years 2006 to 2012 inclusive. Details of the sums received are set out in the schedule exhibited to his witness statement and total £1,190.91. He contends that this commission had not fettered the Respondent's choice of insurers and that it had allowed the Respondent's management fees to be kept artificially low. He goes on to say that as the current insurer does not pay commission the Respondent now intends to gradually increase its management fees to reflect the actual costs of managing the Building.

Decision and Reasons

37. The tribunal agrees with Mr Ollech's submission that both the wording of the Lease and the legal authorities he cited in submissions (copies of which were included in the hearing bundle) allow the Respondent a very wide discretion in terms of choice of insurer. It also agrees that while cheaper insurance may have been available, the Respondent was not obliged to shop around to find the cheapest insurance. In the tribunal's view the authorities establish that so long as insurance is obtained in the market and at arm's length then the premium will have been reasonably incurred.

38. In *Forcelux Ltd v Sweetman* [2001] 2 EGLR 173 the Lands Tribunal set out the test as to whether insurance is "reasonably incurred" for the purposes of s.19 of the 1985 Act and considered that the relevant question was *"not whether the expenditure for any particular service charge item was necessarily the cheapest available, but whether the charge that was made was reasonably incurred".*

39. In *Havenridge Ltd v Boston Dyers Ltd* [1994] 2 EGLR 73, the Court of Appeal held that it was unnecessary for a landlord to "shop around" and that it was sufficient if insurance was taken out in accordance with the lease; with an insurer of repute; and *either* that the rate was representative of the market rate *or* that the contract was negotiated at arm's length and in the market-place. Evans J. held:

> "...the question remains, what limits should be placed upon the tenant's obligation to indemnify the landlord. The limitation, in my judgment, can best be expressed by saying that the landlord cannot recover in excess of the premium which he has paid and agreed to pay in the ordinary course of business as between the insurer and himself. If the transaction was arranged otherwise than in the normal course of business, for whatever reason, then it can be said that the premium was not properly paid, having regard to the commercial nature of the leases in question, or, equally, it can be

supposed that both parties would have agreed with the officious bystander that the tenant should not be liable for a premium which had not been arranged in that way.

If this is the correct test, as in my judgment it is, then the fact that the landlord might have obtained a lower premium elsewhere does not prevent him from recovering the premium which he has paid. Nor does it permit the tenant to defend the claim by showing what other insurers might have charged. Nor is it necessary for the landlord to approach more than one insurer, or to "shop around". If he approaches only one insurer, being one insurer of "repute", and a premium is negotiated and paid in the normal course of business as between them, reflecting the insurer's usual rate for business of that kind then, in my judgment, the landlord is entitled to succeed. The safeguard for the tenant is that, if that rate appears to be high in comparison with other rates that are available in the insurance markets at the time, then the landlord can be called upon to prove that there was no special feature of the transaction which took it outside the normal course of business...in my view, [that] if the plaintiff proves either that the rate is representative of the market rate, or that the contract was negotiated at arm length and in the market-place, whether literal or metaphorical, he establishes that it was a genuine contract, that he has acted "properly" and that the sum was "properly paid".

40. This approach was also followed in *Williams v Southwark Borough Council (2001) 33 HLR 22*, where Lightman J held that a landlord was not obliged to find the lowest premium payable. It was sufficient to agree a premium at the market rate or to negotiate the insurance contract at arm's length and in the market place. So too in *Avon Estates (London) Ltd v Sinclair Gardens Investments (Kensington) Ltd* [2013] UKUT 0264 (LC) where the Upper Tribunal stated that:

> *30.* "... So long as the insurance is obtained in the market and at arm's length then the premium is reasonably incurred. There is nothing to suggest that the insurance was arranged otherwise than in the normal course of business, and the appellant did not seek to adduce evidence to support such a contention. The appellant's complaint is that it might be possible to obtain a cheaper rate, but it is not for the landlord to establish (as has been expressly found in *Berrycroft*) that the insurance premium was the cheapest that could be found in order for the costs to have been reasonably incurred. The words "properly testing the market" used by Mr Francis in *Forcelux* in 2001 does not in anyway detract from the decisions of the Court of Appeal in *Berrycroft* and *Havenridge* that the landlord must prove either that the rate is representative of the market rate, or that the contract was negotiated at arm's length and in the market-place."

41. The tribunal has some concerns with the Respondent's lack of testing of the insurance market until it secured the services of a broker in the last few years. In its

view it is good practice for a landlord to test the market from time to time to ensure that the cost of premiums quoted are competitive. However, whilst good practice, the authorities referred to above establish that it is not required, as a matter of law, to do so.

42. Clause 6(1) of the Original Lease obliges the lessor to insure the Building "....as the Lessor thinks fit in some insurance office of repute in the full value thereof.." and therefore allows the Respondent a wide discretion as to choice of insurer. The Applicant did not dispute that insurance was taken out in accordance with the terms of his lease or other than with an insurer of repute. It is the tribunal's view that there is no evidence before it to establish that the premiums being challenged were negotiated otherwise than at arm's length and in the market-place.

43. There was, therefore, no obligation on the Respondent to shop around for a cheaper insurance provider than RSA as asserted by the Applicant even though, as the Respondent acknowledges, one may well have been available. The Applicant's assertions that "insurers of repute" take advantage to overcharge existing customers and that "loyalty does not pay" in the insurance market do not assist his case so long as insurance is obtained in the market and at arm's length.

44. In the tribunal's view the fact that commission was paid by RSA to the Respondent does not prevent these transactions from being at arm's length. There is no suggestion that there is any connection or link between the Respondent and RSA other than that of an insurer and insured. The payment of such commission is not uncommon in the insurance market and the mere payment of commission is insufficient, in the tribunal's view, to render the relationship between the Respondent and RSA anything other than one of arm's length.

45. However, the tribunal does not consider that sums received by the Respondent by way of commission are sums that are payable by the Applicant as part of his service charge liability.

46. The existence of this commission (which appears to be around 12% of each premium) is not mentioned in the service charge accounts and was not disclosed to the Applicant until shortly before the hearing of this Application. Given that Section 42 of the Landlord & Tenant Act 1987 requires that sums paid by a tenant by way of service charge must be held in trust by a landlord and that it is a fundamental principle of trust law that a trustee may not profit from his trust, this state of affairs is regrettable.

47. The Respondent's explanation that the payment of this commission allowed it to keep its management charges artificially low is not a satisfactory one. If the commission is to be treated in this way this should be disclosed to the tenants and reflected as a credit in the service charge accounts.

48. If, as a result of the cessation of this commission, the management charges increase the Applicant is entitled, if he so wishes, to pursue another application to this tribunal if he considers the amount demanded to be excessive for the service provided. Any tribunal considering such an application will no doubt have regard to

the amount of management required for a property of this nature with only two lessees and where the tenants carry out all repairs and maintenance themselves.

49. In the absence of any evidence from the Respondent as to why this commission is being paid; how it is calculated and if the commission is related to any services or claims administration carried out by the Respondent the tribunal is not prepared to conclude that these amounts which were included in the relevant insurance premiums were reasonably incurred.

50. As such, the tribunal's decision is that the costs of all of the premiums disputed by the Applicant were reasonably incurred and are payable by him in his apportioned share save for that element of the premiums that relate to the commission received by the Respondent for the years 2006 to 2012 inclusive.

51. That disposes of this Application but, for completeness, the tribunal records that it was not, in any event, persuaded that the quotations obtained by the Applicant were true like for like comparables.

52. The Applicant obtained several alternative quotations, primarily through the Internet but focused on the following four comparables to demonstrate what he considered would amount to a reasonable premium.

(i) Direct Line who quoted £592.52 in about August 2009.

(ii) NIG who quoted £490.76 on 22nd November 2011.

(iii) Sun Life who quoted £791.61 in a telephone conversation on 22nd November 2011.

(iv) A quote obtained in 2014 from Ashley Page, insurance brokers, for insurance with Ageas Insurance in the sum of £732.65.

53. The tribunal does not consider that any of these quotes can safely be relied upon as being true like for like comparables. The Applicant confirmed to the tribunal that he had a full copy of the RSA policy since 2007 but that he did not send this policy document to any of the insurers. He thought that he probably sent it to Ashley Page but he is unaware if Ashley Page sent it on to any of insurers or how they used the information contained in the policy documents. In the tribunal's view obtaining a quote by completing an online form on an insurance company's website cannot amount to a safe comparable because there is no review of the respective policy terms and conditions.

54. That lack of evidence that the terms and conditions of the RSA policy were considered by other insurers is a fundamental problem with all of the quotes obtained by the Applicant. In addition to this there are distinct problems with the quotes obtained by the Applicant in 2011 as his evidence was that he did not disclose the existence of the 2010 subsidence claim to them because he wished to identify the extent to which the RSA premium was unreasonable notwithstanding that claim. As such the 2011 quotations are clearly not like for like quotations.

55. The Ageas quote obtained from Ashley Page does mention the subsidence claim but cannot, in the tribunal's view be relied upon as a true comparable quote due to the uncertainty as to whether or not they had regard to the terms and conditions of the RSA policy. In addition, a problem with all of the quotes obtained by the Applicant is that there is a risk that the initial premium quotes by an insurer may be artificially low in order to attract new business and that does not appear to have properly taken into account by the Applicant.

Application under Section 20C

56. The Applicant sought an order that the costs incurred by the Respondent in connection with these proceedings should not be regarded as relevant costs when determining the amount of service charge payable by him.

57. When exercising its discretion as to whether or not to make a s.20C order the tribunal has to have regard to what is just and equitable in all the circumstances. The circumstances include the conduct and circumstances of all parties as well as the degree to which the Applicant has succeeded in this application.

58. Having regard to these factors the tribunal considers it is just and equitable in the circumstances to make such an order as it considers it would be unjust for the Respondent to include all, or any part, of the costs in the service charge

59. It considers that if the Respondent had attended the Case Management Conference the issues in dispute between the parties may well have narrowed given that the Applicant indicated at that hearing that he was willing to consider mediation. In addition the very late disclosure of the commission received by the Respondent and the lack of information provided as to the circumstances surrounding payment of that commission are factors that the tribunal considers merit the making of a s.20C order. Earlier disclosure of this information would have enabled the judge dealing with the Case Management Conference to order appropriate directions in order to assist this tribunal in determining that aspect of this Application.

Reimbursement of Fees

60. Having heard the submissions from the parties and taking into account the determinations above and that the Applicant was only partially successful in his Application, the tribunal does not order the Respondent to refund any fees paid by the Applicant.

Name: Amran Vance
Tribunal Judge

Date: 15.12.14

Annex

Appendix of relevant legislation

Landlord and Tenant Act 1985

Section 18 - Meaning of "service charge" and "relevant costs"

(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 – Limitation of service charges: reasonableness

(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 – Liability to pay service charges: jurisdiction

(1) An application may be made to the appropriate 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 the appropriate tribunal 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 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 that tribunal;
  (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property 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.

Leasehold Valuation Tribunals (Fees)(England) Regulations 2003

Regulation 9

(1) Subject to paragraph (2), in relation to any proceedings in respect of which a fee is payable under these Regulations a tribunal may require any party to the proceedings to reimburse any other party to the proceedings for the whole or part of any fees paid by him in respect of the proceedings.

(2) A tribunal shall not require a party to make such reimbursement if, at the time the tribunal is considering whether or not to do so, the tribunal is satisfied that the party is in receipt of any of the benefits, the allowance or a certificate mentioned in regulation 8(1).