12039

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**MAN/00CH/LSC/2016/0061**
Property	:	**24 Goldstone, Pimlico Court, Gateshead, Tyne & Wear NE9 5HW**
Applicant	:	**Mr R. Wadey**
Representative	:	**None**
Respondent	:	**J.H. Watson Property Investment Limited (Landlord)**
Representative	:	**Afia Riaz**
Type of Application	:	**Liability to pay service charges - Section 27A Landlord and Tenant Act 1985**
Tribunal Members	:	**Judge Simpson** **Mr Harris** **Mrs Usher**
Date of Decision	:	**5 April 2017**

Decision

Determination:

The service charge costs reasonably incurred and payable, for year ended 31 May 2016, by Mr Wadey are £607.54, being the amounts claimed by the landlord, reduced as to: common parts electricity (to £27.10):Window cleaning (to £13.74) and General maintenance and repair (to£36.36).

Application

1. This is an application by Mr Wadey which was lodged with the tribunal on 5 August 2016. It sought, initially, a consideration of three years service charges for the years ended 31 May 2014, 2015 and 2016.
2. The application followed an earlier, similar, application, which had been withdrawn, and was made against a background of six previous applications since 2003. The Tribunal therefore held a case management conference on 17 October 2016, at which the parties attended and detailed Directions were given.
3. Those Directions are attached (at Schedule 1), and these written reasons should be read in the light of those directions. It should firstly be noted that the application was, and is now, limited to consideration of the year ending 31st of May 2016. Mr Wadey did apply to reinstate the two previous years, which he had withdrawn at the CMC and in respect of which permission was given for withdrawal. That application was refused by the Tribunal's decision of 14 November 2016. It should also be noted that it was recorded that several items were then no longer challenged as being out-with the Lease.
4. Compliance, or otherwise, with the Directions of the Tribunal was fraught with difficulties and generated a substantial volume of correspondence both between the parties and with the Tribunal.
5. The Tribunal, of its own volition, gave further directions on 21 December 2016 requiring the parties to focus attention on the significant issues in this case, by the preparation and completion of a Scott Schedule.
6. Such a schedule was prepared by the respondent landlord's representative. Mr Wadey did not complete the Scott schedule in the form required by the Directions but continued to express his case in, often lengthy, narrative form.

7. It transpired that the parties were unable, in accordance with the Directions, to agree a bundle for consideration by the Tribunal at the final hearing. Accordingly the paperwork submitted to the Tribunal comprises a bundle prepared by the landlord's representative and up-to-date representations received from Mr Wadey.

8. The respondents bundle was received at the Tribunal on 21 March 2017. Mr Wadey's further representations dated 19 March 2017 was received at the Tribunal offices on the same date, 21 March 2017.

9. Mr Wadey indicated that because of ill-health he would have preferred the inspection of the premises to have been abandoned and for the case to proceed on the basis of written representations only. The Tribunal declined that request, but indicated that the inspection would be of the development generally, and not of any specific flat. The parties would not be obliged to attend and in any event would not be allowed to make representations during the inspection. The inspection was for the purpose of acquainting the Tribunal with the physical presentation of the development and to have any such matters that were relevant pointed out to them. In the circumstances the Tribunal decided to proceed with the hearing but made it clear that the written representations, in particular those of 19 March 2017, from Mr Wadey would be fully considered and, perhaps more importantly from Mr Wadey's point of view the tribunal would read, re-read and carefully consider the Lease.

The Lease

10. Mr Wadey holds 24 Goldstone, Pimlico Court under the terms of the Lease, of which he is the assignee, dated 14 April 1978 and made between Rodney Archbold & Co Ltd, as landlord, and James Peter Hall and Joan Elizabeth Moore as lessees.

11. A prominent aspect of Mr Wadey's application is whether or not the Lease authorises many of the service charge items that have been claimed by the landlord through the management company. The Tribunal were therefore very much alert to the need to consider the lease in detail and to ensure that what was charged in the service charge was in fact authorised by the Lease, and a proper interpretation of it.

12. By clause 2 of the Lease the lessee is obliged to pay to the landlord by way of further rent the annual sum mentioned in clause 3 (xvi) of the lease.

13. Clause 3 (xvi) has two subparagraphs. The first obliges lessees to pay to the landlord on 1 January each year the sum of £25 on account of the contribution of the lessee, which is to be calculated in accordance with the second paragraph. That is the cost of providing the services and maintenance specified in the Fourth Schedule, whether by the landlord or its surveyors or chartered accountant in respect of the provision of such services and maintenance and of the computation and collection of the payments therefore.

14. The contribution of the lessee of flat 24 is to be one 16th (subsequently varied by agreement to one 12th) of the cost of providing the services and maintenance referred to in the Fourth Schedule. The amount is such as is certified by the surveyor or chartered accountant for the time being appointed by the landlord to include a reasonable reserve for such items as do not recur annually provided always that such costs shall be ascertained by the surveyor or chartered accountant for the time being of the landlord on 1 June in each year and if the said contribution of the lessee shall be less than the sum of £25 the landlord will forthwith repay to lessee the difference and if the contribution of the lessee should be more than the said sum the lessee shall forthwith pay such difference to the landlord.

15. By clause 4 of the lease the landlord is obliged to carry out with reasonable diligence the several obligations as to maintenance and services specified in the Fourth Schedule of the lease.

16. The Fourth Schedule comprises six paragraphs which requires the cleaning and lighting of the common parts; the decoration of the common parts; to keep the main walls timbers roof drains and common passages in good and substantial repair; to insure the building and block of garages against loss or damage by fire and other usual risks; to keep the grassed area in good order and finally to carry out such works of maintenance repair and landscaping of the building and the adjoining land as the landlord may from time to time deem necessary or desirable.

17. There is also a specific obligation under clause 3 (ix) for the lessee to contribute towards the insurance of the demise premises.

The Applicant's written case

18. The unwillingness of Mr Wadey to adopt the format of the Scott schedule makes it difficult, but not impossible, to ascertain the nature and extent of his objections, and the determination that he seeks from the Tribunal. An adequate précis of his reaction to the Scott schedule is set out in his document dated 6 December 2016. The one dated 19 March 2017, to which the correspondence indicates he intends to limit his representations, is a helpful and focused document.

19. In that document he indicates that he is no longer disputing any of the invoices or any work carried out at Pimlico court. At the hearing he resiled from this on the basis that it was intended to be the case only if the matter proceeded as a paper determination.

20. The crux of his dispute, so far as this application is concerned (although Mr. Wadey has issues with the conduct of the landlord and managing agent, the adjudication of which is beyond the remit of this tribunal) is that several of the items for which service charges are claimed are not within the purview of the lease and are not authorised by it, or any interpretation of it.

21. He reminds the tribunal that the lease was one which was originally prepared by the first landlord and if there is any ambiguity of construction or interpretation then the lease should be interpreted in his favour and not the landlord's.

22. He avers that the service charges are not payable because of a failure by the landlord to certify the service charge costs in accordance with the provisions of the lease, and produces correspondence by way of opinion from LEASE.

23. He further alleges a failure to properly certify the service charge accounts as required by section 21 (6) Landlord and Tenant Act 1985.

24. He asserts that the wording of the lease is not sufficient to enable the landlord to claim for any insurance of the garages, including his own garage.

25. He refers to his submissions of 6 December 2016 to support his contention that neither general maintenance and repair, or buildings insurance or health and safety charges or accounts certification or management fee or major works are within the ambit of the lease. He modified his position on some of these items at the hearing.

The respondents written representations

26. These are set out in narrative form in the statement comprising the amended statement of case of Afia Riaz dated 14 March 2017, and in tabular form by way of Scott Schedule, in accordance with the Directions.

27. The extensive bundle includes the relevant invoices for the service charge works carried out at Pimlico court; the accounts for the year in question; computer generated analysis; the Scott Schedule; the previous Tribunal decisions; sundry reference documents, and a copy of the case upon which the respondents in part rely namely Norwich City Council –v-Marshall.

28. This statement deals with each head of claim and makes reference to the clause in the Lease upon which the landlord relies to justify the service charge demand in respect of that particular head.

29. To the extent that any clause does not precisely specify any part of any head of claim, the landlord relies upon Norwich City Council v Marshall to support the contention that, for example, an element of management might reasonably and properly be charged for as part and parcel of the cost of providing the services in the Fourth Schedule.

The inspection

30. The tribunal inspected Pimlico court on the morning of Wednesday, 29 March 2017.

31. Present at the inspection was Mr Wadey, his son Kevin Wadey and a representative of the landlord, to facilitate access to the roof if required. It was not.

32. Mr Wadey's flat is one of 12 in a custom built block. There are 4 blocks comprising a total of 56 flats. Goldstone has a communal entrance leading to 3 landings and 2 staircases. It is lit, cleaned and decorated to a reasonable standard. The lighting is activated by motion sensitive sensors.

33. The garages are accommodated in external blocks. All 4 residential blocks and the garages are within the grounds of Pimlico Court and maintained to an adequate, but not outstanding, standard. Mr Wadey was able to point out areas of inadequate cleaning, some garden litter and want of repair to the garage block. The metal railings to the front of Goldstone were rusting and had not been painted. There was external street and Court lighting, some of which is adopted and some of which is included in the common parts and grounds.

The Hearing

34. This took place at 11:30 am, at Manor View House, Kings Manor, Newcastle and was attended by Mr Wadey, assisted by his son and Ms Afia Riaz on behalf of the Respondent.

35. Mr Wadey said that Mr Simpson should recuse himself because he was the subject of a complaint by Mr Wadey to the Ombudsman, and Mr Harris should do likewise because colleagues of Mr. Harris were also the subject of complaints.

36. Mr Harris was unaware of any complaints and Mr Simpson was only aware of what had been disclosed by Mr Wadey and had had no official notification of these issues. In any event both Tribunal members felt able to deal with this case fairly and without prejudice. They declined to recuse themselves.

37. We went through the statement of Ms Riaz with the parties to identify how the Respondent sought to justify the charges in terms of the provisions in the Lease. Mr Wadey was able to express his views and refer to his written representations and evidence on an item by item basis.

38. The Lease was read and examined in detail so that every aspect of Mr. Wadey's concerns were addressed and aired, and each assertion by Ms. Riaz, as to how each head of claim was within the Lease, was tested

The Law

39. The relevant Statutory provisions are set out in Schedule 2.

Determination

40. The tribunal firstly considered the lease. A landlord may only charge service charges for items that are either authorised by the lease or enabled by statute or case law.

41. We are satisfied that any works that are carried out and that can properly said to be within the scope of the Fourth Schedule, are works for which the reasonable cost can be charged to the lessee. We do not accept Mr Wadey's assertion that the Fourth Schedule gives no power to the landlord to claim any amounts of money from the lessee. It is correct that the Fourth Schedule sets out what the landlord has to provide and carry out, but it is quite clear that the lease provides for payment, by the lessee, of the cost of carrying out those services.

42. The sums mentioned in clause 3 (xvi) are reserved as further rent at the end of paragraph 2 of the lease.

43. The lessee covenants, in paragraph 3 of the lease to contribute towards the insurance of the demised premises [sub clause (ix)]. The demised premises are defined in clause 2 of the Lease and in Schedule One as also including the garages.

44. The lessee covenants, in paragraph 3 of the lease, to pay the cost of providing the services and maintenance specified in the Fourth Schedule.[sub clause(xvi)]. That sub-clause also contemplates the employment of surveyors or chartered accountant in the respect of the provision of such services and of the computation and collection of the payments therefore.

45. It is therefore quite clear that, to the extent that any item claimed by way of service charge is covered by the Fourth Schedule, it is recoverable and payable so long as the charge is reasonable and any other conditions regarding payment have been complied with (such as the provision of statutory information accompanying the service charge demand et cetera).

46. Whilst the wording of every lease is almost always different from any other lease, and the precise wording in respect of service charges is critical, we accept, in the light of The Norwich City case, that this lease permits and contemplates a reasonable charge to be made for the management of the services. The wording of the lease makes the lessee liable for the "cost of providing" the matters referred to in the Fourth Schedule. The cost of providing services is not exactly the same as the cost of the services themselves. The management, by way of provision of the services, is something for which the cost is included within the wording of this lease, subject to the amount being reasonable having regard to the costs of provision.

47. We are accordingly to proceed, item by item, with a consideration of the Period End Statement at page 123 of the respondent's bundle.

48. This was so even though Mr Wadey had indicated, when requesting a paper determination, that he did not challenge the amounts, but relied only on the representations made in his submission of 19th March. The Respondent was not prejudiced by this change of heart by Mr Wadey, because they had prepared the case on the assumption that it was contested as to reasonableness.

49. We also considered each head of claim in terms of whether it was within the purview of the Lease even though the earlier Directions recorded that some items were not contested on that basis. We did so because Mr. Wadey is a litigant in person, who has been caused apparent stress by the Tribunal process and therefore might properly be allowed some procedural flexibility.

50. As a general matter we found the format of the respondents' accounting and apportionment procedures unclear and difficult to follow. Even after Ms. Riaz had been afforded the opportunity, during the lunch adjournment, to obtain clarification from the accounts department, we were still left without a clear exposition as to how works are apportioned and the invoices allocated.

51. The system appears to be that an invoice will initially be allocated to one of the blocks, depending on whose desk it arrives at. Some staff deal with some blocks and others deal with other blocks. This haphazard allocation is said to be rectified with appropriate Credits and Debits at the service charge year-end, as said to be evidenced by the computer analysis at pages 124-130.

52. It is very difficult to follow. Where Mr. Wadey has raised a credible doubt about an item of service charge we have, in the absence of a clear answer from the respondent, resolved the issue in Mr Wadey's favour.

Common parts electricity

53. This is a classic example of the difficulty. Mr Wadey challenges the cost of outdoor lighting and its apportionment. He says it looks as though Goldstone is paying for it. The respondents have been aware of this issue for years. The accounting information is unclear.

54. Doing the best we can we note that the total attributed at first to Goldstone was £619.15, which was then credited and £480.64 debited with a narrative that that was to be split between 56 flats. A difference of £138.51.

55. £480.64 divided by 56 and then multiplied by 12 (the number of flats in Goldstone) is £102.99. That appears to us to be a reasonable contribution by Goldstone to the outside lighting electricity. If that is added to £138.51 and £83.78 (accrued use) it gives a figure of £325.28. The amount solely attributable to Goldstone appears to be £222.29. Based on our inspection of the nature and extent of the exclusive Goldstone lighting, that is a reasonable and credible figure.

56. We therefore determine that the reasonable and payable figure for Mr. Wadey is 8.33% of £325.28 i.e. £27.10.

Gardening and grounds keeping

57. Whilst Mr. Wadey had some justifiable observations to make about the quality of the gardening at the margins, we determine from our inspection that the works are carried out to a reasonable, but not superlative, standard and the cost is reasonably incurred.

Window cleaning

58. One invoice is for a different development altogether. Reduce £180 to £165.

Cleaning common parts

59. Whilst Mr. Wadey had some justifiable observations to make about the quality of the cleaning at the margins, we determine from our inspection that the works are carried out to a reasonable, but not superlative, standard and the cost is reasonably incurred.

General maintenance and repair

60. We considered each invoice challenged by Mr. Wadey in the light of our approach outlined above, with the following results:- (page numbers)

    233. disallow half. Our inspection indicate only half a job done. Reduction for Goldstone of £26.57 (£124 divided by 56 X 12).

    234. No disallowance.

    235 and 236 and 237. No disallowance. Has already been allocated divided by 56.

    238. Should be joint not just Goldstone. Allow £70 divided by 56 X 12. =15. Disallow £55.

    239. Likewise. Allow £9.68 x12/56ths = £2.06. Disallow £7.59

    240 No disallowance.

    241. Appears to be exclusively "Longs" wrongly debited to Goldstone. Disallow £120.

    243 and 244. Allow.

    245. Allow 12/56th. Disallow £424.29.

    246 Apportioned in 56ths. Allow

    247. appears to be exclusive to Goldstone common parts. Allow.

    249. This does not appear to have been claimed in any event.

    250. This does not appear to have been claimed in any event.

61. The total amount disallowed as not having been established as reasonably incurred is £633.45, reducing the General maintenance for Goldstone to £436.52 of which Mr. Wadey's 8.33% is £36.36.

Buildings insurance

62. We are satisfied that on a proper construction of the Lease the insurance costs are recoverable as part of the service charge.

63. Clause 2 of the Lease demises "ALL THOSE the flat and garage" and defines them as "the demised premises". The First Schedule defines demised premises as including the garage.

64. Clause 3(ix) obliges the lessee to contribute to the insurance of the demised premises. Thus is additional to and independent of the obligation in 3(xvi)

65. The Landlords obligation, in the Fourth Schedule, is also to insure, the building and block of garages. It is the clear intention of the parties to the Lease that the Lessee should , by virtue of Clause 3(xvi) pay for the Fourth Schedule items, and we do not find that the use of the words " cost of providing the services and maintenance specified in the Fourth schedule" in 3(xvi)(a) was intended to exclude insurance.

66. *Annual maintenance contracts. (Not now claimed or pursued by the respondent landlord).*

Health and safety

67. This issue had a much lower profile in 1978. Tri-annual Health and Safety reports are, in the light of today's onerous legislation, prudent and reasonable.

68. The cost claimed is reasonable, and can be justified as a payable service charge item under paragraphs (c) and (f) of the Fourth Schedule. It is part and parcel of identifying the want of repair and maintenance and keeping the common passages and staircases of the building in good and substantial repair order and condition.

Annual certification

69. Mr Wadey raises, and conflates, 2 separate issues.

70. The first is certification of the account under Clause 3(xvi)(b) of the Lease. That has been done by Watsons, chartered surveyors and managing agents for the landlord. (page 134) Watson are Regulated by RICS and accordingly fall within the definition of Surveyor, for certification purposes in 3(xvi)(b).

71. There is additionally an unsigned 'certification' from Brays. (136). Where , as in this case, there is such a sour relationship of mistrust between the Lessee and Managing Agent it would have been preferable for that certificate to have been signed, but an accountants certification is not , under 3(xvi)(b), required in addition to the Surveyor's certification.

72. Secondly there is the question of certification under Section 26 of the Landlord & Tenant Act 1985. Mr Wadey has, it appears, somewhat opportunistically, picked up on the RICS Code exhibited in the respondents' bundle at page 393, but has considered Section 21(6) in isolation without considering the context, or Section 21 as a whole. Section 21, which creates a criminal offence of failing to respond to a properly

made S21 request, is not part of the service charge determination regime as such, and we have no jurisdiction.

Management fee

73. Mr Wadey properly conceded that if the Lease and Norwich City permitted such a charge then the amount was not unreasonable. For the reasons stated above, we find that the charge is payable.

Major works

74. This item was not challenged.

75. We note that the previously much contested reserve fund claim is not pursued or claimed against this applicant. It is beyond our jurisdiction to deal with the case of parties who are not applicants, have been given the opportunity to join in these proceedings but have not done so.

76. Beyond our noting the existence of 5 previous decisions, we acceded to the wishes of the applicant to visit these issues afresh and we have accordingly not taken earlier First Tier Tribunal decisions in respect of this development in to account. We have decide this determination on the evidence before us for the single year in question and relating only to the sole applicant, Mr Wadey.

Costs

77. The lease does not provide for the payment of costs by a lessee in respect of tribunal proceedings. We do not regard the conduct of these particular proceedings as having been unreasonable, notwithstanding some of the difficulties. Ultimately the applicant's case, whilst having only limited success, was presented in a succinct and rational manner which reasonably called for a judicial interpretation of the lease and the reasonableness of some of the service charge items.

78. Accordingly there will be no order as to costs but no order as to reimbursement of fees.

Schedule 1

13th of October 2016.

Upon hearing the applicant Mr Wadey in person and Mr Warren on behalf of the respondent landlord.

Directions

It is recorded that:-

1. Mr Wadey has agreed to use his best efforts to file at the tribunal offices, and serve upon the respondent's representative, a copy of the lease and the plan attached to it. In the event of him having difficulty doing so he will use his best efforts to produce the original lease and plan at the offices of the tribunal to enable the tribunal staff to copy the lease and plan.

2. During the course of the hearing Mr Wadey has indicated that he is willing for the application to proceed on the basis of the tribunal considering only the year 2015 to 2016. He does not intend to proceed with the two earlier years which were documented in the application form lodged at the tribunal on 5 August 2016.

3. *Common parts electricity; gardening and grounds keeping; window cleaning; and cleaning common parts.* There is no issue as to the payability for these items, under the terms of the lease. The issue is the cost of the provision of the services, whether, in the light of the cost, they have been provided to an appropriate standard and in accordance with the terms of any agreements entered into between the landlord, or his agent, on the one hand and the supplier of the services on the other.

4. *General maintenance and repair.* This item is in issue as to whether or not all the items charged under general maintenance repair are within the scope of the lease.

5. *Insurance.* The issue is whether or not the landlord is obliged to ensure the garages and if so whether they are in fact insured and if so who was responsible for the cost of insurance.

6. *Annual maintenance contracts.* This would be contested in principle by the applicant but is conceded by the respondent on the basis that this issue has been decided by a previous tribunal.

7. *Health and safety; account certification; management fee.* These items are challenged in principle as being outside the scope of the lease.

8. *Major works.* This item is challenged in principle as being outside the scope of the lease and the amount is, in any event, contested.

9. *Reserves.* Mr Wadey's position is the tribunal should decide whether or not the lease provides for a contribution to reserves and if so in what sum. He contends for £25 per annum. The landlord's position is that this matter has been previously decided by a tribunal and no claim has been made by the landlord against Mr Wadey for the year in question in respect of reserves. Therefore the tribunal does not have jurisdiction to deal with the service charge which is not claimed. There is accordingly an issue as to whether or not this can be an issue within the tribunal's jurisdiction.

10. Mr Warren, on behalf of the landlord requested the tribunal to deal with preliminary matters including the fact that the application form lodged by Mr Wadey had been signed on his behalf and not by him personally and secondly as to whether or not there was an estoppel preventing Mr Wadey re-litigating, for the year in question in this application, an identical issue had been previously decided earlier years by a tribunal.

Discussion

11. A consideration of the most appropriate directions to provide a way forward to resolve disputed matters led to the conclusion, by the tribunal, that the items referred to in paragraph 3 of the recitals above could be dealt with by the provision of documentation rather than detailed representations before disclosure documentation.

12. It was concluded that the items referred to in paragraphs 4,5,7 and 8 of the recitals could most appropriate to be dealt with by utilising a Scott schedule, the nature and format of which was understood by the parties.

13. The jurisdiction of the tribunal in respect of the question regarding reserves is one for representations only without documentation.

14. The tribunal was minded to rectify any minor defects in the execution of the application form and to require the respondent landlord, if it is intended to pursue an application to strike out all or part of the applicant's claim on the grounds that there is an estoppel or that the application is an abuse of process, because of previous decisions, then the landlord should do so by lodging a proper application within 28 days of the landlord representative receiving these directions, with a copy to Mr Wadey, setting out the order sought and the grounds upon which it is sought.

15. It was concluded that several of the issues may well affect other long leaseholders. There are 12 flats numbered 13 to 24 of which Mr Wadey's flat is one. It was concluded, as proportionate, for the tribunal office to notify the other long leaseholders, by letter addressed to them as long leaseholders at each flat, of the existence of Mr Wadey's application and to give them an opportunity to seek a copy of the application and to apply to join in if they wished.

Directions.

16. Mr Wadey shall within seven days of receiving these directions provide to the tribunal and the respondent's representative a copy of the lease and plan or provide the original the tribunal secretariat to copy and distribute.

17. Any application by the respondent landlord to strike out all or part of Mr Wadey's claim shall be lodged with the tribunal and served on Mr Wadey within 28 days of the date upon which the representative receives these directions. The application shall set out the order sought and the evidence and representations in support. The tribunal will consider any such application and give directions to enable Mr Wadey to reply and for the matter to be heard or decided. In default of such application the respondent will not be allowed to pursue such an application in future in these proceedings, without the permission of the tribunal.

18. The application lodged on 5 August 2016 is ratified, and any formal defects in respect of the preparation of the same are, by this order, waived.

19. The application lodged on 5 August 2016 job shall proceed on the basis only of a consideration of the year 2015 to 2016. To the extent that any permission is required to withdraw the application in respect of the two earlier years then that permission is hereby given.

20. The respondent landlord shall, by 28 days after the date of receipt of these directions by its representative, prepare a Scott schedule comprising six columns with headings for (i)the item claimed, (ii)the clause in the lease or case law or statute relied upon to enable the charge to be raised, (iii)the amount claimed, (iv)the applicant's acceptance or rejection that the item is claimable,(v) the case law

or statute relied upon by the applicant (if any) and finally (vi)the amount that the applicant regards as reasonable in the event that the item is chargeable.

21. The landlord shall complete columns (i) to (iii) in respect of *general maintenance and repair; buildings insurance; health and safety; account certification; management fee and major works.*

22. Mr Wadey shall, within three weeks of receipt of the Scott schedule complete the remaining three columns and serve the completed Scott schedule on the landlord's representative and on the tribunal.

23. The tribunal secretariat shall forthwith write to the long leaseholders of the other 11 flats informing them that an application has been made for the tribunal to consider the reasonableness and payability of the service charges for the year 2015 to 2016 and that any party considering an application to be joined in may be supplied upon request made within 7 days of the letter of notification, with a copy of the application and these Directions. Any application by a party seeking to be joined shall be made to the tribunal within 14 days of that party receiving a copy of the application and these Directions.

24. The parties shall not seek to enter into correspondence with the tribunal save to correct any manifest error of draftsmanship. Any communication from a party to the tribunal must be copied to the other party. Any party requesting any other action by the tribunal must do so in the form of submitting a draft of the Order sought and a formal statement in support of the application. The parties should not expect the tribunal to otherwise reply to correspondence.

25. The tribunal will review, on a date to be fixed after eight weeks from the date that these directions are communicated to the parties, the Scott schedule and any other applications, with a view to giving further directions regarding disclosure statements and final hearing which review may be at a hearing or maybe without a hearing and on the basis of the documents filed.

Tribunal judge M J Simpson.

13th of October 2016

Schedule 2

Landlord & Tenant Act 1985

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 provision 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.

27A Liability to pay service charges: jurisdiction

(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.