11437

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	LON/00AJ/LSC/2014/0254
Property	:	First Floor Flat, 65 Windsor Road, Ealing, London, W5 3UJ
Applicant	:	Blocnet
Representative	:	65 Windsor Road Limited ("the RTM Company"
Appearances for Applicant:	:	(1) Ms Gemma Drummond, Director and Member of the RTM Company (2) Mr Scott Drummond, lessee of Flat 2, 65 Windsor Road (3) Mr Waseem Waslayab, Director and Member of the RTM Company (4) Mr Stefano Marchetti, Director and Member of the RTM Company and witness
Respondent	:	Dr Elizabeth Prabhakar
Representative	:	In Person
Appearances for Tenant:	:	(1) Dr Prabhakar (2) Mr P Flanders, McKenzie Friend and witness
Type of Application	:	For the determination of the reasonableness of and the liability to pay service charge and liability to pay administration charges

Tribunal Members	:	(1) Mr A Vance, Tribunal Judge (2) Mr M Cairns, MCIEH (3) Miss J Dalal
Date and venue of Hearing	:	21 October 2015 10 Alfred Place, London WC1E 7LR
Date of Decision	:	9 November 2015

DECISION

Decision of the Tribunal

1. The Tribunal determines that the following sums are payable by the Respondent to the Applicant, by way of service charge, in her 1/8 share, for the following service charge years:

Service Charge Year	Amount
2009/10	£9,823.47
2010/11	£7,946.64
2011/12	£6,845.37
2012/13	£7,936.00

The amount specified in County Court claim B4AY6898 as outstanding from the Applicant by way of service charge arrears was £2,052.11. As these arrears related to the four service charge years specified above and as the Tribunal has determined the Respondent is liable to pay to the Applicant her apportioned share of the full amount of the service charges for each of those four years it follows that the sum of £2,052.11, if properly calculated, is payable by the Respondent in full.

2. Administration charges in the sum of £216 are payable by the Respondent to the Applicant. The amount specified for these costs in the County Court proceedings was £336.

3. The Tribunal declines to make an order under section 20C of the Landlord and Tenant Act 1985 preventing the Applicant's costs of these tribunal proceedings from being passed on to the lessees through any service charge.

Background

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 the Respondent in respect of the service charge years ending 31 December 2010; 31 December 2011 ; 31 December 2012 and 31 December 2013.

5. It also seeks a determination pursuant to Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act") as to whether or not certain administration charges are payable by the Respondent.

6. The relevant legal provisions are set out in Appendix 1 to this decision.

7. References in bold and in square brackets below refer to pages in the hearing bundles prepared by the Respondent with the first number indicating which of the four bundles the pages relate to.

8. Proceedings were originally issued in the County Court Business Centre under claim no. B4AY6898 ("the County Court Claim"). Default Judgment was entered on 11 February 2015 **[3/9]** but this was set aside and the claim was transferred to this Tribunal by order of District Judge Nisa sitting at the Brentford County Court dated 1 June 2015 **[3/25]**.

9. The Applicant is the managing agent of 65 Windsor Road Management Company Ltd ("the RTM Company") and has been so since 15 May 2013, the date the RTM Company acquired the management function of 65 Windsor Road, Ealing, London, W5 3UJ ("the Building"). The Building is a four-storey converted Victorian terraced house comprising seven flats. The freehold owner of the Building is S & H Limited **[3/170]**.

10. Since February 2006 the Respondent has been the leaseholder owner of a studio flat on the first floor of the Building ("the Flat") and she is also a member of the RTM Company. Her lease of the Flat was granted for a term of 125 years commencing on 29 September 2004 ("the Lease"). The hearing bundles before the Tribunal did not contain a dated and executed copy of the Lease. However, the Respondent had supplied a copy of the draft lease **[3/176-194]** and neither party contended that the terms of the Lease were in any way different to the terms of the draft lease. Under the terms of the Lease the landlord is to provide services and the tenant is to contribute towards one eighth of these costs by way of a variable service charge. The Respondent did not take any point on this method of apportionment. The specific provisions of the Lease will be referred to below, where appropriate.

11. Prior to the RTM Company acquiring the management function of the Building on 15 May 2013, management was carried out by managing agents, North Central Property Management ("NCPM"). A large part of the amount claimed in the County Court Claim concerned arrears of service charge that had accrued whilst management rested with NCPM. Part of the remaining sum related to costs incurred in the period between 15 May 2013 and 20 September 2013, the latter being the date on which NCPM handed over paperwork and the balance of accrued uncommitted service charges to the RTM Company.

12. NCPM have confirmed that responsibility for any service charge arrears incurred prior to the transfer of the management function now lies with the RTM Company **[2/75]** and the Applicant has instructed the RTM Company to collect in those historic arrears **[2/86]**.

13. Directions were issued by the Tribunal on 14 July 2015 **[2/202]**. In an email to the Tribunal dated 31 August 2015 the Respondent requested that the cost of intended major works also be considered by the Tribunal. This request was agreed to by the Tribunal on 21 September 2015 **[2/216]** who directed that each party had permission to rely on the evidence of one expert in relation to the major works, such report to be served by 30 September 2015.

Inspection

14. Neither party requested that the Tribunal inspect the Flat or the Building and the Tribunal did not consider it necessary or proportionate to do so.

The Hearing

15. The Tribunal heard evidence from Mr and Ms Drummond and from Dr Prabhakar. We first sought to clarify the service charge years in dispute and which heads of expenditure in respect of each year were being disputed by the Respondent.

16. As far as the transferred application is concerned, the tribunal's jurisdiction derives from the County Court Claim in which the Applicant claimed sums due in respect of service charge arrears and administration charges. The Respondent, in her Statements of Case, witness statements and Scott Schedule raises numerous other issues that do not relate to either the outstanding service charges or the administration charges claimed in the County Court claim. Many of these issues are not within the Tribunal's jurisdiction and are therefore not addressed in this decision.

17. The sum claimed in the County Court Claim was of £2,953.51 **[3/2]** of which, according to paragraph 9 of the Particulars of Claim, £2,052.11 related to service charge arrears. Mr Drummond's evidence was that £1,716.11 of that sum concerned service charge arrears accrued prior to transfer of the management function and £336 concerned costs demanded after transfer of the management function but prior to 20 September 2013. His evidence on these points was not challenged by the Respondent.

18. Mr Drummond also confirmed that the arears of service charge claimed in the County Court Claim related to the service charge years ending 31 December 2010; 31 December 2011; 31 December 2012 and 31 December 2013. Again, this was not contradicted by the Respondent.

19. Service charge statements giving final figures for each head of expenditure as well as the budgeted on account sums appear in volume 4 of the Applicant's bundle at **[4/74-75]** for 2009/10; **[4/76-77]** for 2010/11; **[4/78-79]** for 2011/12; and **[4/80-87]** for 2012/13.

20. The end of year service charge account statements show that the following costs were incurred in respect of the service charge years in question:

Service Charge Year	Amount
2009/10	£9,823.47
2010/11	£7,946.64
2011/12	£6,845.37

2012/13	£7,936.00

21. The Tribunal directed Dr Prabhakar's attention to each of those statements and asked her to identify which heads of expenditure were being disputed by her. She stated that she disputed the costs of the following:

Service Charge Year	Heads of Expenditure	Amount (as per final account)
2009/10	Cleaning	£1,033.44
	General Repairs	£4,017.09
2010/11	Garden Maintenance	£812
2011/12	General Repairs	£1,767.50
2012/13	None	-

22. However, during the course of the hearing Dr Prabhakar dropped her challenge to the 2011/12 service charge year. A breakdown of the costs in question appears at **[2/18]**. The only item in that breakdown that was, initially, challenged by Dr Prabhakar were the fees of Tant (Building Management) Ltd in the sum of £1,702.50 including VAT invoiced on 8 September 2010 **[4/197]** relating to an inspection of the Building and preparation of a Schedule of Works for external repairs and redecorations and obtaining completive estimates for these works. A copy of the Specification of Works appears at **2/158-167]**. A Notice of Intention to carry out works was sent to the lessees **[2/40]** and estimates were sent to them on 24 April 2012 **[2/41]** but before works commenced the lessees, including Dr Prabhakar, successfully requested that they be postponed **[2/178]**. Having examined these documents at the hearing the Respondent withdrew her challenge to this sum.

23. The Tribunal then turned to the challenge regarding the costs of the forthcoming major works exercise and explained to the Respondent that costs demanded from her related to the estimated cost of the works as opposed to final costs. It was also explained that the she had the right to challenge, if she so wished, the final costs of the work as well as the interim sum demanded. After hearing that explanation she decided to withdraw her application and the Tribunal consented to her doing so. However, she reserved her position regarding the payability of the sum demanded from her and her right to pursue a challenge in the future.

24. Despite the withdrawal of the application, both parties requested that the Tribunal hear the parties evidence as to these costs and asked it to give a non-binding indication as to whether or not it considered the sum demanded from the Respondent was payable by her. The Tribunal agreed to do so in the hope that this

may assist in resolving this issue without the need for a further application to the Tribunal.

25. We will deal with each of the disputed heads of expenditure below. Before doing so we noted that in the final paragraph of her witness statement Dr Prabhakar made reference to service charge invoices not being demanded correctly in that they did not state the landlord's address. This was not a point that the Respondent raised at the hearing but it appears to us, on the evidence contained in the hearing bundles that her assertion is incorrect. We accept that following the decision in ***Beitov Properties Ltd v Elliston Martin [2012] UKUT 133 (LC)*** it is clear that the requirement at s 47(1) of the Landlord and Tenant Act 1987 to specify the name and address of the landlord in a demand for service charges can only be satisfied by provision of the actual address of the landlord and not, for example, by the provision of an address of a managing agent or third party. However, the invoices received from NCPM for the service charge years in dispute **[3/71-90]** all identify the landlord as being S & H Limited and that its' address is 7 St John's Road, Harrow, Middlesex. It is apparent from the letter from S & H Limited at **[2/86]** that this is their actual business address and the Respondent did not argue otherwise. We therefore conclude that the relevant service charge demands have been properly demanded.

2009/10 Service Charge Year

(a) Cleaning £1,033.44

26. Copy invoices relating to these costs appear at **[4/146-182]**. They relate to costs incurred by Pillars Property Cleaning and Maintenance Ltd. Apart from one-off costs for clearing bulky items from the common parts the monthly fees charged are in the sum of £35 plus VAT.

27. The Applicant's case was that these costs had been properly incurred, that works were carried out to a reasonable standard and that the costs were reasonable in amount.

28. The Respondent's only challenge was that *"the charges for cleaning have doubled from the previous charge of £499 pa"* – see her comments to item 20 of the Scott Schedule **[1/40]**. However, despite stating in her comments to that item that she would provide alternative quotes with her supplementary witness statement she does not appear to have done so. She did not refer the Tribunal to any such alternative quotes at the hearing and made no substantive arguments as to why the costs incurred were unreasonable in amount.

Decision and Reasons

29. The entire sum demanded is payable by the Respondent in her apportioned share. The Respondent's contention that the costs were excessive is not supported by any evidence. In the Tribunal's view the sum of £35 plus VAT for the routine monthly cleaning of the common parts is modest despite the limited nature of the communal areas.

(b) General Repairs £4,017.09

30. A breakdown of these costs appears at **[2/18]**. The only item challenged by Dr Prabhakar was the cost of works described as "Fire Risk Works" in the sum of £3,466 for which an invoice appears at **[4/191]**.

31. The Applicant's position was that these works were carried out following a consultation exercise under s.20 of the 1985 Act with an initial Notice of Intention sent on 6 April 2010 **[2/37]** and a Statement of Estimates on 28 June 2010 **[2/39]**. Ms Drummond confirmed that as indicated in the Notice of Intention the works carried out related to the installation of: emergency lighting in the communal hallways and stairs; a fire detection and alarm system with battery backup; fire extinguishers; and suitable signage on each floor, together with associated electrical works.

32. The Respondent confirmed that the above mentioned works were carried out following the s.20 consultation exercise. She did not dispute the need for the works, the standard of the works carried out or their cost except that she considered the standard of signage to be poor. However, she agreed that she had not specifically raised the quality of the signage with the Applicant. Her only evidence to support this contention were several site inspection reports carried out by the Applicant dated between 5 October 2013 **[3/278]** and 22 November 2014 **[3/286]** in which it was recorded that signage for the emergency exits was poor and that consideration should be given to improving this. She did not elaborate on how the signage was poor.

Decision and Reasons

33. The entire sum demanded is payable by the Respondent in her apportioned share. The Respondent's sole challenge to these costs, namely her contention that the signage was poor, was not mentioned in her Statement of Case, witness statements or Scott Schedule If she had raised this issue prior to the hearing then we have no doubt it would have been addressed in evidence by the Mr and Ms Drummond who therefore cannot be criticised for not doing so.

34. The references in the several site inspection reports to the signage on the emergency doors being poor is not, in our view, sufficient to lead us to conclude that these costs were improperly incurred or that they were unreasonable in amount.

35. This is for the following reasons. Firstly, the Respondent did not explain why and in what way the signage was poor. Secondly, these works were carried out in 2010, several years before the inspection reports relied upon by the Respondent and so there is a risk that the signage has deteriorated since originally installed. It was clear from the photographs supplied that signage had been provided at some point even though, years later, it perhaps could be improved. Finally, as stated above, this issue was not identified by the Respondent prior to the Tribunal hearing and therefore the Applicant has not had the opportunity to address it in evidence. Given the inadequate nature of the evidence relied upon by the Respondent, we are not

satisfied that these costs are unreasonable in amount or that the work carried out in 2010 was not carried out to a reasonable standard.

2010/11 Service Charge Year

(a) Garden Maintenance £812

36. A breakdown of these costs appears at **[2/19]**. The only item challenged by Dr Prabhakar were the costs of works to repair the front entrance door of the Building and the path in the front garden in the sum of £300 for which an invoice appears at **[4/192]**.

37. The Applicant's case was that these costs had been properly incurred, that works were carried out to a reasonable standard and that the costs were reasonable in amount. The builders invoice describes the work carried out as the replacement of the weatherboard to the front door and to fill in holes to the communal path.

38. The Respondent raised no dispute concerning the replacement of the weatherboard but contended that there were still holes to the front path and referred us to a recent photograph **[3/159]** which, she said, demonstrated that there were still holes by the bottom of the last step. She argued that if better materials had been used then these holes would not have reappeared.

39. Ms Drummond agreed that holes had reappeared by the bottom of the stairs but that this was because there had been a problem with a rat infestation whereby rats had burrowed through the area under the stairs leading to the front door. This was to be addressed in the forthcoming major works exercise.

Decision and Reasons

40. The entire sum demanded is payable by the Respondent in her apportioned share. The Respondent's only challenge to these costs, namely the inadequacy of repairs to the front path was, once again, not mentioned in her Statement of Case, witness statements or in the Scott Schedule. There is wholly inadequate evidence before us to lead us to conclude that these works carried out in February 2011 were not carried out to a reasonable standard. We accept Ms Drummond's evidence that these new holes have been created as a result of the rat problem and not because poor materials were used in 2011, for which there is a complete lack of evidence. Evidence that the Building has had a serious rat infestation problem is contained in the report of Crystal Services PLC **[3/150]** dated 25 April 2006 which refers to the presence of several rat holes and burrows at the front of the Building.

The Administration Charges

41. Mr Drummond confirmed that the administration charges included in the County Court Claim in the sum of £336 related to costs incurred by the Applicant in chasing payment of outstanding service charge arrears from the Respondent. The sum comprises the costs of sending two initial reminder notices of £54 demanded on 16 January 2014 **[4/50]** and 29 July 2014 **[4/53]**, together with two second arrears notices in the sum of £114 each on 3 March 2014 **[4/51]** and **[4/54]**.

42. Mr Drummond explained that prior to the initial reminder notice the Applicant would have received one or two polite emails chasing payment. Then, if checks of the bank account indicated that no payment had been received within 14 days, a notice together with a summary of rights and obligations would be sent by email. After a further 28 days had passed further checks of the bank account would be made and a second notice would be sent. Information also would start to be compiled at that point in order for solicitors to be instructed. We queried what additional work was required for the second notice over and above the first notice and if it was appropriate to include costs relating to collation of information to instruct solicitors. In response to those queries Mr Drummond agreed that the costs of the second notice should be limited to £54, the same sum as the first notice.

43. Dr Prabhakar's position was that she was entitled to withhold service charges when these were in dispute until such time as that dispute was resolved and that it was therefore not reasonable to impose these charges. She also considered the amount to be excessive for the work carried out.

Decision and Reasons

44. The administration charges are payable by the Respondent under the provisions of the Lease. The sum now sought by the Applicant, £216, is reasonable in amount. This comprises four charges of £54 each.

45. Under paragraph 4 of the Third Schedule of the Lease **[3/188]** the tenant covenants to pay to the landlord its costs and expenses incurred *".....in recovery or attempting to recover all sums payable by the Lessee....whether or not proceedings of any nature are commended in respect of the same".*

46. The Lease therefore provides for an amount to be payable by a tenant, as part of or in addition to rent, towards costs arising from non-payment of a sum due to the landlord under the lease. This meets the definition of an administration charge as set out in Schedule 11 of the 2002 Act.

47. However, variable administration charges such as these must also be reasonable in order to be recoverable. In the Tribunal's determination the sum of £45 plus VAT (£54) per notification is reasonable for the work described by Mr Drummond and which was not challenged by the Respondent.

48. The Respondent's suggestion that she can withhold payment pending a final determination of her dispute is misguided. These are sums that she is contractually obliged to pay under the terms of the Lease. She can, if she so wishes, make payment under protest and still dispute her liability to make such payment before this tribunal. However, she is not entitled to withhold payment on the basis she suggests.

<u>Major Works</u>

49. We set out below our non-binding view as to whether or not these costs are payable by the Respondent.

50. A demand for payment in the sum of £9,761.25 for the estimated costs of the works was sent to the Respondent on 28 August 2015 **[2/142]**. Mr Drummond explained that this demand was based on the works set out in the most recent version of the Specification of Works **[2/145-156]**. A pricing schedule for the individual heads of expenditure is at **[2/170]** although some items were removed as the RTM Company considered these to amount to improvements **[2/171]** resulting in a revised quote of £50,635. However, this quote has since expired and the RTM Company is now proposing to instruct a different contractor, W S Group Limited, who have submitted a quote in the sum of £51,105.

51. Mr Drummond also stressed that the RTM Company has been frustrated by the fact that the Respondent has not paid her contribution towards the costs of these works as without her payment the works cannot commence.

52. When asked to explain the nature of her challenge it became clear that the Respondent was under the mistaken understanding that the intention was to replace the existing roof of the Building. Having been taken through the specification she appreciated that this was not the case. She did not dispute that the works were necessary and agreed that she had no evidence to dispute that the costs set out in the pricing schedule at **[2/170]** were excessive. The only item she disputed before us were the costs of temporary access in the sum of £10,545.

53. A detailed description for this item appears at **[2/147]** and includes site set up, management and preliminaries including the erection of scaffolding with an alarm system. Ms Drummond explained that the scaffolding was needed to three sides of the Building, to the front, rear and on one side and that part of the area concerned was narrow making the erection of scaffolding more difficult.

54. It was clear to the Tribunal that there was no evidence before us on which we could have determined that the estimated costs of the temporary access works were not payable by the Respondent. Her suggestion that this was the case amounted to bare assertion without any corroborating evidence. As this was the only item on the pricing schedule that she was challenging it follows that if we had determined this issue on the day of the hearing we would have determined that the entire sum of £9,761.25 was payable by the Respondent. Her challenge to these costs appears to the Tribunal to have been without any merit.

55. It is, of course open to either the Respondent or the RTM Company to pursue an application to this Tribunal to determine whether or not these costs are payable by the Respondent. However, the Tribunal hopes that in light of the indication given above that this issue can be resolved between the parties without the need for such an application. This is especially important given that the works are being commissioned by the RTM Company for the benefit of all of the lessees, including Dr Prabhakar, and because the RTM Company clearly needs her to pay her contribution before works can commence (given the inadequate balance available in the sinking fund to fund the works).

Application under Section 20C

56. At the hearing the Respondent sought an order under section 20C of the Landlord & Tenant Act 1985 Act that none of the costs of the Applicant incurred in connection with the proceedings before this Tribunal should be regarded as relevant costs in determining the amount of service charge payable by the Tenant. Her only argument in support of making such an order was that as the County Court had transferred the claim to this Tribunal it was inappropriate for her to have to contribute towards the Applicant's costs.

57. Mr Drummond's position was that the costs incurred were recoverable under the terms of the Lease and that it would be inequitable for other members of the RTM Company to have to meet the costs incurred except for the Respondent.

Decision and Reasons

58. The Tribunal is satisfied that the landlord is entitled to recover the costs of these tribunal proceedings under paragraph 4 of the Third Schedule of the Lease in which the tenant covenants to pay to the landlord its costs and expenses incurred *".....in recovery or attempting to recover all sums payable by the Lessee....whether or not proceedings of any nature are commended in respect of the same"*. The costs in question concern the recovery or attempted recovery of sums payable by the Lessee under the terms of the Lease.

59. Having heard the submissions from the parties and taking into account the determinations above, the tribunal determines that it is not just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act. Except for the modest concession made by the Applicant over the administration charges payable the Respondent has not succeeded in respect of any aspect of her challenge. We also consider that given that this application is brought on behalf of a RTM Company that it would be inequitable, given the Respondent's lack of success in resisting this application, for the other lessees to have to meet these costs but not her.

The next steps

60. As the Tribunal has no jurisdiction over ground rent, interest or county court costs this matter should now be returned to the Brentford County Court.

Name: **Amran Vance** **Date: 9 November 2015**

Annex 1

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

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(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.

Commonhold and Leasehold Reform Act 2002

SCHEDULE 11 Administration Charges

Section 158

Part 1 Reasonableness of Administration Charges

Meaning of "administration charge"

1

(1) In this Part of this Schedule "administration charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—

(a) for or in connection with the grant of approvals under his lease, or applications for such approvals,

(b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,

(c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or

(d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.

(2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.

(3) In this Part of this Schedule "variable administration charge" means an administration charge payable by a tenant which is neither—

(a) specified in his lease, nor

(b) calculated in accordance with a formula specified in his lease.

(4) An order amending sub-paragraph (1) may be made by the appropriate national authority.

Reasonableness of administration charges

2

A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

3

(1) Any party to a lease of a dwelling may apply to [the appropriate tribunal] for an order varying the lease in such manner as is specified in the application on the grounds that—

(a) any administration charge specified in the lease is unreasonable, or

(b) any formula specified in the lease in accordance with which any administration charge is calculated is unreasonable.

(2)-(6) [..........]