10788

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**LON/00BE/LSC/2015/0094**
Property	:	**28 Bardell House, Dickens Estate, Parkers Row, London SE1 2DH**
Applicant	:	**London Borough of Southwark**
Representative	:	**Mr P. Cremin; Income Enforcement Officer, Southwark**
Respondent	:	**Mr P. Kokkinos**
Representative	:	**In person**
Type of Application	:	**Section 27A and 20C Landlord & Tenant Act1985, Service Charges (Court Referral)**
Tribunal Members	:	**Judge Lancelot Robson Mr H. Geddes JP RIBA MRTPI Mr O. N. Miller BSc**
Date and venue of Hearing	:	**10 Alfred Place, London WC1E 7LR 13th May 2015**
Date of Decision	:	**5th June 2015**

DECISION

© CROWN COPYRIGHT 2015

Decision Summary

(1) In the referred County Court case, the Tribunal determined that the sums referred to in paragraph 43 were payable by the Respondent under the terms of the lease dated 23rd January 1989 (the Lease).

(2) The application by the Applicant for reimbursement of its fees paid to the Tribunal under Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, was refused.

(3) The Tribunal also made the other decisions noted below.

(4) This case is now referred back to the County Court at Lambeth to deal with court costs and any other outstanding matters.

Preliminary

1. By an order made on 21st February 2015 in the County Court at Lambeth in Claim No. A93YM595 District Judge Burn referred the Applicant's claim for service charges to this Tribunal. The Applicant seeks an order as to the reasonableness of service charges under Section 27A of the Landlord & Tenant Act 1985 relating to the service charge years commencing 1st April 2011, and estimated service charges for the years commencing 1st April 2013 and 2014, pursuant to the Lease.

2. Directions were given by the Tribunal on 3rd March 2015 without a Case Management Conference for a paper determination. In response to an application by the Respondent, on 30th April 2015 the Tribunal gave further Directions for a hearing of the case on 13th May 2015. The Respondent had served a detailed defence in the County Court dated 1st September 2014. In reply the Applicant served a statement of case in the County Court on 4th December 2014, and in this application on 31st March 2015. The Respondent responded to the Reply on 17th April 2015, and the Applicant made a further Reply on 28th April 2015.

3. The Tribunal Directions only specifically identified the issue of "Historic Neglect" in the Respondent's defence, but did refer in general terms to items in the detailed defence. The Directions did not make provision for the production and exchange of witness statements, but the Directions dated 30th April 2015 did order that the hearing bundle should contain (inter alia) copies of all relevant invoices for items over £100, all relevant accounts, and all receipts and invoices in relation to contested items, and any signed witness statements. Regrettably none were included in the bundle.

4. A few minutes before the end of the hearing Mr Cremin complained that the Applicant had sought a Case Management Conference on two occasions on receipt of the Directions as it was concerned by the lack of witness statements and clarity over the evidence to be produced, but its correspondence had been ignored by the Tribunal. In the event, he was only able to locate an email dated 31st March 2015 attaching the Applicant's reply. The Tribunal noted that it appeared from the email

© CROWN COPYRIGHT 2015

(copied to the Tribunal on 14th May 2015, with a slightly inconsistent list of concerns) that he expressed concern about relevance and matters previously dealt with by the Tribunal, suggesting a Case Management Conference. This email appeared not to have been replied to, which this Tribunal found concerning. Also, with the benefit of hindsight, this Tribunal thought that a CMC in this case would have been beneficial to concentrate both parties' minds on the issues actually in dispute. At the hearing, this Tribunal suggested that the issues of concern to the Applicant (which is a frequent user of the Tribunal) could be brought up at a Tribunal User Group Meeting.

5. Nevertheless, the parties had both made further statements as part of the original Directions process, and the Applicant had not taken that opportunity to develop the concerns it raised with this Tribunal until the end of the hearing. The Tribunal decided that the Applicant had not, in fact, been prejudiced, particularly because the Tribunal had issued further Directions directing full discovery on 30th April, and this Tribunal had agreed the items in dispute with the parties at the start of the hearing. Those items had been drawn from the Respondent's initial defence in the County Court proceedings.

6. As an aid for the parties, extracts from the relevant legislation are attached as Appendix 1 below. The Tribunal notes for the benefit of the parties that it has no jurisdiction relating to Ground Rent, costs, or any interest claimed pursuant to statute in the County Court. These matters remain within the jurisdiction of the Court. The Tribunal also has no jurisdiction in a referred case under Section 27A relating to any matters which were not raised in the claim or defence in the County Court.

Hearing

7. At the start of the hearing the Tribunal identified, in consultation with the parties, the following items in dispute during the years in question. It excluded certain items raised by the Respondent, as the costs fell into years not before the Tribunal on the County Court reference;

* Extent of block/Estate common parts
* Historic Neglect
* "Bed Weighting" service charge calculation
* Tenant/Lessee contributions
* Land Sale
* Overheads
* Uplift
* Grounds Maintenance
* Cleaning
* Lighting
* Survey
* Calculation of Estimates
* Administration/Management Fees

The Tribunal decided to deal with these items by subject, rather than by year. The parties' evidence and submissions on each item will then be

© CROWN COPYRIGHT 2015

followed by the Tribunal's decision. The Tribunal reversed the usual order of submissions because in this type of case the Respondent's submissions are effectively questioning the Applicant's charges. The Applicant's submissions are made in answer to those questions.

Historic Neglect

8. The Respondent clarified that he had used the term "neglect" in a general sense, in that he thought quality of work in the common parts was unsatisfactory. The Tribunal explained the legal concept of Historic Neglect, and the evidence required to prove it. He confirmed that this had not been his objective, but he thought the estate was neglected. The Tribunal noted that neither party had brought sufficient evidence to be able to engage effectively in a discussion of the effect of Historic Neglect on the service charge (which would normally require an expert surveyor's witness statement and evidence on both sides). The Tribunal decided that the matter could not therefore be argued in this application.

Extent of block/Estate common parts

9. The Respondent submitted that the Applicant's allocation of charges to the block and estate was opaque and inconsistent. He gave the example of a footpaths around the block and a flower bed adjacent to Bardell House (built after the main block), which had been charged to the block, and similar areas in a neighbouring block which had been charged to the estate. He submitted that only items in the internal common parts should be charged to the block. He took the Tribunal to other items in the unitemised works record in support of this item. He submitted that he had discussed this matter with one of the Applicant's local managers, and had concluded from the discussion that the decision as to which account should be charged was effectively made at the manager's discretion.

10. The Applicant initially defended its charges, noting that the flower bed was attached to the block. It agreed in answer to questions from the Tribunal that the Lease was of little assistance, with no definition of the block and estate common parts by reference to a plan or a satisfactory description. The Applicant submitted that it was reasonable to charge the block for the flower bed, but after some discussion of other items it conceded that in future it would charge the external items to the estate, and only internal items or other items exclusively used by the block, to the block.

11. The Tribunal noted the Applicant's concession. The Lease was unhelpful, and given the large size and complex nature of the blocks and the estate (which also included some commercial units), the most readily understandable division between the two accounts (which led to a significant percentage difference in the leaseholders' contributions to the charge) was the formula conceded by the Applicant.

"Bed Weighting" service charge calculation

12. The Respondent submitted that the calculations used by the Applicant to calculate the block and estate charges were incorrect, and had varied

© CROWN COPYRIGHT 2015

from year to year. In 2010 the Applicant had promised to correct the calculation but had failed to do so. The Respondent considered that the block calculation for his property should be 6\224, rather than 6\223 as argued for by the Applicant. He did not have enough information to work out the estate charge.

13. The Applicant conceded that its previous calculations were inaccurate. After a short discussion at the hearing it was agreed that the Respondent's calculation for the block charge was correct. The Applicant was prepared to credit the Respondent £4.45 for each of the last 3 years to reflect the concession. (The Respondent agreed this figure.) The Applicant also agreed to reconsider 2008. The estate charge had changed in the past due to physical changes to properties on the estate, and a land sale. The correct current figures were 5,617 for Grounds Maintenance, care and upkeep, and 5524 for repairs.

14. The Tribunal noted these concessions and incorporated them into its decision.

Tenant/Lessee contributions

15. The Respondent submitted in his written statements that he had discovered that tenants on the estate were paying lower sums for certain services than leaseholders, and gave an example.

16. The Tribunal considered it was appropriate to assist the parties on this issue from its knowledge and experience, and explained at the hearing that the Applicant, as a social landlord, had access to various sources of money which were available for subsidising various elements of social housing, but were not available to leaseholders. Thus the figures charged to tenants did not represent the actual cost. It would be comparing chalk with cheese to compare the service charges of tenants and leaseholders. The Respondent accepted this explanation.

Land Sale

17. The Respondent submitted that (particularly) the grounds maintenance charges made by the Applicant did not reflect the sale of a piece of the estate to a major supermarket. The costs of maintenance seemed to have increased, rather than decreased.

18. The Applicant submitted that the land sale had reduced the number of units in the estate service charge calculation, but the costs of the rest of estate therefore had to be spread over a reduced number of property units. The actual effect was neutral.

19. After considering the evidence and submissions, the Tribunal accepted the Applicant's submission that the land sale had had no effect on the overall estate charges.

Overheads

20. The Tribunal asked the Applicant to explain to it and the Respondent what it meant by "Overheads". The Applicant submitted that an

© CROWN COPYRIGHT 2015

overhead was a charge made on each item of work done on the block or estate to reflect the notional administrative staff cost to the Applicant. This was done by making an estimate of the staff time involved in any particular activity. It was additional to the 10% administration fee charged. The overhead amount charged varied from year to year, and from service to service. The Upper Tribunal in 2013 had accepted that this method of charging was reasonable, see London Borough of Southwark v Gary Paul & Jurgen Benz [2013] UKUT 0375 (LC).

21 The Respondent submitted that the sum accepted by the Upper Tribunal in 2007 was 5%. In 2013, this figure had risen to 27%, which in his view was unreasonable.

22. The Tribunal considered the evidence. While it was prepared to accept that each item of work had an administrative cost attached to it which might be reasonable, the Applicant was unable to explain to the Tribunal in any detail how the actual cost on any item was calculated. Without this evidence, it was quite impossible for the Tribunal (or anyone else) to decide if the overhead cost was reasonable. The Tribunal decided that the only reasonable way it could be treated was as an additional variable administrative or management charge, which could not satisfactorily be explained. The Tribunal made no finding on this item, but dealt with the issue by considering it with the 10% administration charge contractually charged under the Lease. (see below)

Uplift

23. The Applicant submitted that the Applicant claimed that this sum was an agreed sum paid to the contractor for the provision of services. This figure was 38.39%. No one had explained who had agreed to this figure, or whether it had been consulted upon, despite requests. He referred to evidence in the bundle where this amount was being paid to contractors for "unitemised repairs".

24. The Applicant was questioned on its statement by the Tribunal at this point as the statement was somewhat vague. The Applicant explained that the contractors were being paid a monthly retainer PLUS according a schedule of rates for each work order in the proportion 39/61%. It was not the case that the contractor was being paid an extra 38.39% on top of the actual cost of the work. The Tribunal was able to reassure the Respondent that this method was common in this type of contracting. The Respondent was satisfied with this explanation.

Grounds Maintenance

25. The Respondent submitted that he had been unable to discover from the information given to him, despite many requests, how much had been spent on tree work. He was dissatisfied with the tree work because one of the trees was breaking up a wall. Leaves from the trees were blocking the gutters and causing dampness within the block. He referred to photographs he had taken in 2009, which were in the bundle. He stated that the tree mostly concerned was still there, despite a major works contract for this item. The charge he challenged was in the 2011/12 year.

© CROWN COPYRIGHT 2015

26. The Applicant submitted that the amount charged to the Respondent for grounds maintenance in that year was £55, and £17.18 for arborial work. The total cost of that arborial work was £13,000 for the whole of the Estate, however there was no documentary evidence and no witness statement on this point.

27. The Tribunal considered the evidence and submissions. The photographs in the bundle gave it a reasonable understanding of extent of the trees and shrubs, and also the work likely to be necessary. The Tribunal concluded that £13,000 was too high for the work actually being done. Without satisfactory detailed records, it was difficult to be precise. However the Respondent had suggested a figure, which was 50%. The Applicant considered the amount charged was reasonable. The Tribunal decided that a 50% deduction applied to the arborial charge was reasonable, giving a deduction of £8.59.

Cleaning

28. The Respondent submitted that he had no issues with the estate cleaning, but was unhappy with the block cleaning. The cost to him was £199.94. He referred to photographs in the bundle taken from 2012 onwards, some showing a lot of building debris on the stairs and landings. In his submission the cleaners only cleaned the floors once every 3 weeks, and the common entrance once a week. His neighbours actually swept the stairs. If the work was being done according to the contract schedule, the cost would be reasonable. For the work actually being done he proposed a reduction of 50%. He submitted that standard had not changed since 2010.

29. The Applicant submitted that the contract required the cleaners to attend on a 52 week schedule. Some work was done daily, others items weekly and some monthly. The lifts were cleaned every 2 weeks. The stairs were to be cleaned twice a week. The work was supervised by the Estate officers. In reply to questions it agreed that there were no witness statements from the Estate Officers. However Mr Cremin stated that he had attended on the previous Monday. The block looked good. The concrete floor was stained but clean. The windows and cills were clean and in good condition.

30. The Tribunal considered the evidence and submissions. It was unfortunate that neither party had provided a witness statement with first hand evidence. However the charge made was less than £4 per week. The parties agreed that some work was being done, but disagreed on the frequency. In this instance the Tribunal decided, that the sum charged was reasonable for the work done, even if it was not proved to be at the desired standard.

Lighting

31. The Respondent submitted that the lighting was fixed externally to the block, but since 2008/9 the Applicant had started to charge the block lighting to the estate charge. This was inconsistent, particularly because

© CROWN COPYRIGHT 2015

in 2005/6 his block had been charged for the cost of renewal, but later other blocks only had to contribute to the cost as an estate charge. Some blocks had meters for the lighting, but others did not. The lights were often on 24 hours per day. The amount charged to him in 2011/12 was £279.18. He suggested a reasonable charge was 25%.

32. Mr Dudhia for the Applicant agreed that the policy had changed. The blocks were charged for internal lighting, but the estate was now charged for external lighting. In answer to questions, the parties agreed that this block comprised 32 units on 4 stairwells, with 6 lights on each stairwell. There was a lift. The Tribunal asked the Applicant if the annual cost for the block (of about £9,000 for 34 lights, the lift, and repairs) was too high. Mr Dudhia stated that the electricity bills came from EDF. The lighting was on timers, but was not light sensitive.

33. The Tribunal considered this evidence and the submissions. The Tribunal noted that the Applicant had no evidence to support its submissions. The Tribunal decided that the level of the charge (at about £2,250 per stairwell) was unreasonable, and that it would allow only 50% of the charge, i.e. £139.59.

Survey

34. The Respondent submitted that he had requested details of a survey fee included in the 2011/12 accounts, described as "Structural Survey Dickens Estate", totalling £4,375. None had been forthcoming. In the end he had made a formal complaint. However the person handling the complaint could find nothing, but asked in a letter (in the bundle at page 202) to the Respondent if he had any details. In the Respondent's view this fee should be withdrawn.

35. The Applicant stated that it had no information relating to the charge.

36. The Tribunal considered the evidence and submissions. It was clear the Applicant had no evidence to support the charge. The Tribunal thus decided that the charge was unreasonable in its entirety, and should be deducted. The actual cost charged to the Respondent has not been calculated, but the Applicant should be able to apply the correct estate percentage.

Administration/Management Fees

37. The Respondent considered the management was poor. He returned frequently in his evidence and submissions to the confusion and lack of communication from the Applicant. His complaints had been effectively ignored, and despite the ongoing investigation of his complaint, the Applicant had commenced the court proceedings against him. He put in issue his payment record. He had in fact paid his service charges in full until the Applicant had started to deny him information quoting the Data Protection Act. He had then decided to withhold service charges. He was particularly concerned that in addition to the 10% administration fee he was being charged "overheads" which represented another

© CROWN COPYRIGHT 2015

administration/management charge. As noted above, some of these charges increased from 5% to 27%. The lighting overhead was 11%.

38. The Respondent submitted that many of the matters complained by the Respondent were not within the court reference, but historical matters. It referred to a decision of the Upper Tribunal in 2013 [2013] UKUT 0375 (LC)), relating to overheads and management. However it made no explicit submission on the quality of its own management. The increase in the Overheads was due to improved cost capture by the Applicant. Compared with a number of London Councils its Overheads charges were competitive.

39. The Tribunal considered the evidence and submissions. The Tribunal considered that the Applicant had not managed its accounting responsibility to the Respondent well, as he, (and the Tribunal) was unable to work back from the charge to him and explanations given, to the cost of providing many of the services charged.

40. Also as noted above (relating to Overheads) the Tribunal was concerned by the opacity of the Overheads charge. There was no evidence before the Tribunal as to how the charges were calculated, except that they varied in amount from item to item, depending upon the percentage of (unspecified) staff time nominally assigned to the activity. The Tribunal had no difficulty in principle with the concept of an Overheads charge, neither did the Upper Tribunal. However the evidence before this Tribunal was rather different to that placed before the Upper Tribunal in 2007. The evidence before this Tribunal was of significant administration charges of variable amounts well in excess of the 10% charge reserved by the Lease. Critically, the Applicant had not tried to show it separately, presumably in the belief that it was allowed by the Upper Tribunal decision. However, whatever method, (or methods), of apportioning charges is chosen, the resulting charge must be reasonable. The Tribunal considered disallowing the Overheads charge entirely, on the basis of lack of evidence. However that seemed too draconian. Also disallowing a charge which had not been quantified in evidence would be of little assistance to the parties, and would likely create further disagreements. The Tribunal therefore decided to take abroad brush approach and deduct £20 from the 10% fixed fee to deal with both elements of the management which it considered were unsatisfactory.

Calculation of Estimates

41. The Respondent submitted his understanding that the annual estimates were usually calculated by reference to the last three years of final service charges. He had little confidence that the figures for actual service charges were accurate, therefore he was disputing the estimated charges for 2013/14 and 2015/15. He considered that items included in the 2012 estimates were unnecessary or overstated, which would affect the subsequent estimates.

42. The Applicant submitted that the Respondent was obliged under the terms of Schedule 3, paragraph 2(1) of the Lease to pay in advance a

© CROWN COPYRIGHT 2015

reasonable estimate of the service charges, but made no other submission.

43. The Tribunal considered the evidence and submissions. The Lease did not specify how estimated charges should be worked out, but only that they should be reasonable. The Applicant's reported method of averaging the last 3 years' accounts was not an unreasonable method, but the Applicant had not confirmed or denied the Respondent's submission. The Tribunal noted that many experienced managers would use the figure for the previous year and add 10%, if there were no specific additional costs envisaged. If additional costs were expected then some informed estimate of those costs would be made and added to or subtracted from the charge. This approach had found favour with many Tribunals. The Tribunal decided to work from the figure found due from its decisions noted above. The Applicant had demanded £1,282.87 for the year 2011/12. The Tribunal has made the following deductions above:

Bed Weighting (conceded)	4.45
Grounds maintenance -	8.59
Lighting	139.59
Management/Administration	20
Unidentified Estate Survey	To be quantified

	£172.63 plus survey

Thus the actual figure for 2011/12 appears to be in the region of £1,100. The estimated sums demanded were £991.09 for 2013/14, and £464.26 (i.e. the half year's charge sued for in Court) for 2014/15. In the light of the 2011/12 actual figure, the Tribunal decided that both estimated figures were reasonable.

Costs

44. The Applicant made an application for reimbursement of the hearing fee by the Respondent under Rule 13 of the The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. The Applicant submitted that the Respondent had had most of the answers to his complaints before he came to the hearing. The Respondent should have come to see the Applicants' staff with his queries.

45. The Respondent refuted the Applicant's submissions, referring to pages 337-40 of the bundle (relating to bed weighting). He had succeeded on the bed weighting issue. There were no invoices for the work as he had requested even at the hearing. The Applicant had given poor information.

46. The Tribunal considered the evidence and submissions. The Applicant's submissions looked quite thin in the light of the evidence in this case, and the Tribunal's decisions above. While it appeared from the bundle that the Applicant had attempted to supply information at times, the information supplied was often vague and opaque. The Applicant seemed not to have fully appreciated that a lay leaseholder paying a

© CROWN COPYRIGHT 2015

service charge is entitled to a breakdown and explanation of charges to be paid which he or she can trace back to the prime records of expenditure without undue difficulty. The Tribunal refused to make an order.

47. This case shall now be referred back to the County Court to deal with outstanding matters.

Chairman: Judge Lancelot Robson

Dated: 5th June 2015

Appendix 1

Landlord & Tenant Act 1985

.**Section 18**

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

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

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

Section 19

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

   and the amount payable shall be limited accordingly.

© CROWN COPYRIGHT 2015

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

Section 27A

(1) An application may be made to a Leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to -
- (a) the person by whom it is payable,
- (b) the person to whom it is payable,
- (c) the amount which is payable,
- (d) the date at or by which it is payable, and
- (e) the manner in which it is payable.

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

(3) An application may also be made to a Leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
- (a) the person by whom it would be payable,
- (b) the person to whom it would be payable,
- (c) the amount which would be payable,
- (d) the date at or by which it would be payable, and
- (e) the manner in which it would be payable.

(4) No application under subsection (1) or (3) may be made in respect of a matter which -
- (a) has been agreed or admitted by the Tenant,
- (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the Tenant is a party,
- (c) has been the subject of determination by a court, or
- (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

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

Commonhold and Leasehold Reform Act 2002

Schedule 11, paragraph 1

© CROWN COPYRIGHT 2015

(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.

<u>Schedule 11, paragraph 2</u>

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

<u>Schedule 11, paragraph 5</u>

(1) An application may be made to a leasehold valuation tribunal for a determination whether an administration 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) Sub-paragraph (1) applies whether or not any payment has been made.

© CROWN COPYRIGHT 2015

(3) The jurisdiction conferred on a leasehold valuation tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.

(4) No application under sub-paragraph (1) 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.

(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
(a) in a particular manner, or
(b) on particular evidence,
of any question which may be the subject matter of an application under sub-paragraph (1).

Landlord and Tenant Act 1985 Section 20C

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal, or leasehold valuation tribunal, or the Lands 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)......

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

The Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013

Regulations 13(1) - (3)

13.-(1) The Tribunal may make an order in respect of costs only-

© CROWN COPYRIGHT 2015

(a) under Section 29(4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs;
(b) if a person has acted unreasonably in bringing, defending, or conducting proceedings in-
(i) an agricultural land and drainage case,
(ii) a residential property case, or
(iii) a leasehold case; or
(c) in a land registration case.

(2) The Tribunal may make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party which has not been remitted by the Lord Chancellor.

© CROWN COPYRIGHT 2015