FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**LON/00BJ/LSC/2020/309 V:FVHREMOTE**
Property	**:**	**Flats 212-218, Block VI 189 Viridian Apartments 75 Battersea Park Road London SW8 4DG**
Applicant	**:**	**Viridian Residents Management Company Ltd**
Representative	**:**	**Ms D Doliveux of Counsel**
Respondent	**:**	**Notting Hill Home Ownership Ltd**
Representative	**:**	**Mr S Evans of Counsel**
Type of Application	**:**	**s27A and s20C Landlord and Tenant Act 1985**
Tribunal Members	**:**	**Judge F J Silverman MA LLM Mr R Waterhouse FRICS Mrs L West MA**
Date and venue of Hearing	**:**	**19 May 2021. The Tribunal met in chambers on 18 June 2021 to deliberate on its decision**
Date of Decision	**:**	**01 July 2021**

DECISION AND ORDER

1 **The Tribunal determines that the service charge demands served by the Applicant on the Respondent were improperly served and of no effect. The Applicant's claim is dismissed.**
2 **Subject to section 20B Landlord and Tenant Act 1985 all future demands served by the Applicant must refer to the block as a whole (excepting those flats no longer under the Respondent's control) , be served by registered post on the Respondent and be accompanied by the correct notice of tenant's rights.**
3 **The terms of the parties' lease do not permit the Applicant to levy any administration charges except in relation to s146 and 147 Law of Property Act 1925. All the charges claimed by the Applicant in this case are irrecoverable.**
4 **No interest is payable by the Respondent because no payment is yet due.**
5 **The Applicant must give credit to the Respondent for the sums paid by it in April 2019 (£41,229.38) and October 2019(£48,000) . Having deducted the disallowed administration charges (see 3 above) any resulting overpayment must be credited towards the Respondent's future service charge account sums and a balancing account issued to confirm the financial position . This should be done within 28 days of the date of this decision.**
6 **The Tribunal makes an unlimited order under s20C Landlord and Tenant Act 1985 in favour of Notting Hill Home Ownership Ltd .**
7 **The parties' cross claims for costs will be determined at a further hearing at a date and time to be notified to the parties.**

This has been a remote video hearing which has been consented to by the parties. The form of remote hearing was V:FVHREMOTE . A face to face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The document which the Tribunal was referred to are contained in electronic bundles comprising approximately 1000 pages the contents of which are referred to below. The orders made in these proceedings are described above.

REASONS

1 The Respondent is the tenant and long leaseholder of (inter alia) Flats 212-218, Block VI 189 Viridian Apartments 75 Battersea Park Road London SW8 4DG (the property) of which the Applicant is the landlord and reversioner.

2 The Applicant issued proceedings in the County Court seeking recovery of service and administration charges interest and costs in the sum of £24,960.24 relating to the property. The sums claimed are those which were due from the Respondent on account on 1 April 2019 and 1 October 2019.

3 The matter was transferred to the Tribunal on 23 September 2020 with jurisdiction for the Tribunal to adjudicate on all outstanding matters.

4 Directions were issued by the Tribunal on 21 October 2020.

5 The Tribunal received and read over 1000 pages of electronic documentation, including the parties' respective statements of case, and witness statements which are referred to below.

6 The hearing took place by way of a remote video (VFH) link to which the parties had previously consented. The hearing was curtailed by a technical error and the parties agreed to forward counsels' closing submissions to the Tribunal by email. These were duly received by the Tribunal and were taken into account in the Tribunal's decision.

7 The Applicant was represented by Ms D Doliveux of Counsel and the Respondent by Mr S Evans of Counsel. For the Applicant the Tribunal heard evidence from Ms Heer and for the Respondent from Ms Collymore.

8 In accordance with current Practice Directions relating to Covid 19 the proceedings were recorded and the Tribunal did not make a physical inspection of the property but were able to obtain an overview of its exterior and location via GPS software.

9 The Tribunal understands that the Respondent's lease dated 27 April 2007 and made between Barrett Homes Ltd as freeholder (1), the Respondent as tenant (2) and the Applicant as Management Applicant (3), demises to them all 38 flats in the block of which the subject properties form part. There are no separate leases of individual flats which are all held as one unit under one registered title number. These facts are not in dispute.

10 The Applicant is responsible for the day to day management of the block and wider estate but delegates its duties to Mainstay Residential Ltd as managing agent who in turn pay Maybeck Collections Ltd for recovery of sums due. The Respondent suggested that these two companies which were both incorporated on the same day and share the same registered office and directors were related to each other.

11 The individual flats are sub-let by the Respondent to tenants who are individually responsible to the Respondent under their own leases for the proportion of service charges applicable to their own flat.

12 The dispute in this case has arisen because the Respondent says that the Applicant (through its managing agent Mainstay) failed correctly to serve service charge demands, that the demands were inaccurate, that money paid by the Respondent had not been correctly attributed or

accounted for and that the administration charges imposed by the Applicant (through its collection company Maybeck) for late payment were excessive.

13 Dealing first with the service charge demands, the Respondent accepts that it is liable under Clause 7 Schedule 7 of the lease to pay the tenant's proportion of the service charges twice yearly in advance with a balancing charge at each accounting year's end (September). Interest is payable at 4% above National Westminster base rate on arrears (clause 4, 8th Schedule).

14 Service charge demands should have been issued in accordance with the budget documents prepared by the Applicant. Thus, in relation to the demand(s) made in April 2019 these should have been made following the published budget document for that period (page 157) which shows an annual total sum of £70,059 which would have been payable by the Respondent in two tranches of £35,024.50. There is no explanation from the Applicant for the demand for £41,229.38 ie approximately £6,000 over budget, which was demanded in April 2019. A similar unexplained overpayment was demanded in October of the same year (£48,315.29 instead of £23,801.50 (pp 172, 660-661)). Suggestions by the Applicant that the excess over budget related to arrears were not substantiated by evidence.

15 In the absence of evidence to the contrary the maximum sums which the Applicant could have demanded for these two periods were £35,024.50 (April 2019) and £23.801.50 (October 2019) (See lease 7th Schedule which contains the tenant's covenant to pay the estimated service charge twice yearly in advance).

16 The Applicant said that they divided the total amount of service charge attributable to this block by the number of flats in the block and in accordance with the relative square footage of each apartment. This resulted in different sums being appropriated to different flats. The fact that the Applicant produced no evidence to support this statement is largely irrelevant because under the terms of its lease the Respondent is liable for the total sum attributable to the block and it would be a matter for them as to how they divided that sum between the various flats owners to whom the flats were let by the Respondent.

17 Having apportioned specific sums to individual flats the Applicant then proceeded to serve individual demands on each flat. These demands were served only by email and were served on different named people allegedly within the Respondent organisation, at least one of whom did not work for the Respondent at the relevant time (pages 787,792,794). The Applicant also served demands (called 'Payment Requests') on the Respondent in respect of flats which were no longer in the Respondent's ownership because they had been bought out (staircased) by the residential sub-tenant.

18 Because there is only one lease for all the flats combined and thus one contractual relationship between the Applicant and Respondent and one covenant within the lease making the Respondent liable for the service charge for the block/all the demised flats as one unit, it follows that there should have been one service charge demand of the total amount payable served on the Respondent in respect of each chargeable period.

19 The service by the Applicant of separate service charge demands on individual flats is incorrect, moreover it is the Respondent's right to decide how it wishes to divide the total amount payable by it between its own sub-tenants. Save in cases where the residential sub-tenant had bought out the lease, the Applicant had no right to serve individual demands and no right to recover payment in respect of any individual flat. The Applicant said that the demands had always been served individually and that the Respondent had not previously objected. They were unable to substantiate this in evidence nor does the Tribunal accept that the Respondent had waived its right to receive demands by proper postal service.

20 The demands served by the Applicant are therefore ineffective and until correct demands are served, and subject to s20B Landlord and Tenant Act 1985, no monies are due from the Respondent.

21 Because the demands were incorrectly served, no money was due from the Respondent and thus the Applicant had no actionable cause which they could pursue. Their County Court proceedings were issued prematurely and could not have succeeded.

22 Further, clause 6.5 of the lease (page 90) provides for service of documents to be made in accordance with s196 Law of Property Act 1925 which, in the absence of provisions to the contrary in the lease provides for service by registered post or by leaving a copy at the last known place of business. In the present case there are no provisions to the contrary in the lease and no evidence that an alternative method of service had been agreed to by both parties. The demands appear only to have been served by email which is inadequate and not acceptable (see E.ON UK plc Gilesports Ltd [2012]EWHC 2172 (Ch)]). For this reason also the Applicant is unable to recover any sums due until the demands are served in proper form.

23 The Applicant in closing submissions suggested that the issue of clause 6.5 and s198 Law of Property Act 1925 was not before the Tribunal. The Tribunal disagrees, the recoverability of service charges does depend on their having been properly demanded (as well as reasonably incurred) and in this respect the terms of the lease, which in this case refers to s196, are relevant.

24 Although the Applicant's witness Ms Heer said that she thought the demands had been served by post and email because that was the way she understood it was usually done, no evidence was produced to support this statement. Ms Heer had not been employed by the Applicant at the relevant time and therefore her evidence as to this procedure is not definitive. Similarly, the Respondent's only witness Ms Collymore had not been in the Respondent's employment at the time when the events under discussion took place and her evidence was of little assistance to the Tribunal.

25 There also appears to have been a problem with the notice of tenant's rights which should have been attached to every service charge demand. The Respondent says these were not attached when the demands were served which would render the charges irrecoverable until this omission was rectified. No examples of the notices were produced in evidence although the Applicant said they had been served. The Respondent agreed not to pursue this matter in relation to the

demands for administration charges (below) where it conceded that the correct notices had been served.

26 Although it is clear from the above that the service charge demands served by the Applicant in respect of the periods April and October 2019 were incorrectly served and no sums are currently recoverable in respect of them, there is of course no reason why new and correct demands and notices should not be re-served which would revive the outstanding liability (if any) between the parties.

27 Despite the fact that the demands served by the Applicant were legally ineffective, the Respondent did make payments to the Applicant in both April and October 2019 (it concedes that one payment was made late). Page 1/307 shows a BACS for £41,000 and page 2/252 a payment of £41,229.38. Despite this, the Applicant insisted that full payment had not been made but could not demonstrate from its accounts how much money they had received or where the moneys which they had received had gone. There appears to be a discrepancy of at least £6,000 unaccounted for. On balance the Tribunal prefers to rely on the BACS slips as evidence that the amount stated in them was paid to the Applicant. The Applicant admitted that £1,600 which should have been allocated to the account for Flat 212 had been received by them but had not been credited to the account (page 298). The Applicant did not dispute the receipt of £41,000 in August 2019 but was unable to say where the money had gone.

28 The Applicant suggested that money had been allocated to arrears and therefore a shortfall was showing on the current payments. They said that they had allocated the money as they saw fit (page 798 para 33 and 918) and did not specify where the arrears had arisen. The Respondent said that they had remitted sums to the Applicant with instructions as to how that money should be applied (pages 886-7,660-661) and the Applicant had ignored those instructions by applying part of the sums due to paying off administration charges imposed by them. The Tribunal agrees with the Respondent's submission that the Applicant should have attributed the money to the accounts in accordance with the Respondent's express instructions and failing that, in accordance with the rule in Clayton's case (1816) 35 E R 767, (1816) 1 Mer 529 which requires sums paid to be allocated to the earliest debt on the account which would in this case have been the service charge account since any administration charge for late payment could not have arisen until the service charge itself had become overdue.

29 The Tribunal notes that the Respondent did not question the reasonableness of the amount of the service charge but did object to the manner in which the amounts had been apportioned, and the demands had been served and also to the administration charge(s) which the Applicant had added to the debt which they claimed to be overdue and were now seeking to recover under Schedule 11 Commonhold and Leasehold Reform Act 2002.

30 In relation to the administration charges, the Applicant had added a charge of £60 to all 38 demands served (total £2, 280) although as a matter of law only one service charge demand (relating to the block as a whole under the terms of the lease) was overdue. The maximum charge which could have been added , subject to the terms of the lease

(below) would be £60 although the Applicant offered no explanation as to how this or any other sum had been calculated. Administration charges had variously been added as late payment fixed penalty fees, charges for referring the matter to the collection company (Maybeck) charges for corresponding with the Respondent's lender (one registered title, one loan, 38 letters, £250 charge per flat) , internal administrative costs , interest on unpaid service charges and legal fees.

31 Similarly, when the account(s) was/were not settled by payment (although the Respondent had in fact sent a BACS payment) the matter(s) was/were immediately handed over to the Applicant's debt recovery company Maybeck who issued 38 collection letters (again, one for each flat in the block instead of one letter to the Respondent as per the lease) and added an administration charge to each flat's account for the issue of the letter. Proceedings were then issued just eleven days after the letter(s) were sent accumulating additional administration costs to each flat.

32 In order for the Applicant to succeed in its claim to recover administration charges the lease under which the Respondent holds the property must contain an appropriate covenant to pay such charges. The subject lease only contains at para 5 of the 8th Schedule (page 101) a standard covenant by the tenant to pay the costs of proceedings under ss146 or 147 Law of Property Act 1925. That section is only applicable where forfeiture proceedings are contemplated and there is no evidence of that being in issue in this case. That being so, it follows that the Applicant has no right whatsoever to add any administration charges to the Respondent's service charge accounts and no sum is recoverable in respect of any them.

33 The Applicant asked the Tribunal to make an order under s20C Landlord and Tenant Act 1985 restricting the Respondent from recovering litigation costs through the service charge. Having considered the representations made by both parties' representatives in their closing submissions the Tribunal determines that it will makes such an order in favour of the Respondent as named above and for an unlimited amount. None of the Applicant's arguments have been substantiated or justified. The general standard of accounting in relation to service charges has been very poor and the Respondent has been put to expense to defend a claim which was unsustainable by the Applicant and should not have been pursued .

34 The Tribunal is also required to adjudicate on the parties' cross-applications for costs including, from the Respondent, an application under Rule 13 of the Tribunal Rules of Procedure. These will be dealt with at a separate hearing and the parties have been asked to give the Tribunal dates to avoid. When the date has been fixed for the resumed hearing the Tribunal will issue further Directions.

35 **The Law**

Landlord and Tenant Act 1985 (as amended)

Section 18

(1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -

(a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and

(b) the whole or part of which varies or may vary according to the relevant costs.

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

(3) For this purpose -

(a) "costs" includes overheads, and

(b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -

(a) only to the extent that they are reasonably incurred, and

(b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;

and the amount payable shall be limited accordingly.

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

Section 27A

(1) An application may be made to 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 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 20

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
   (a) complied with in relation to the works or agreement, or
   (b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal .

(2) In this section "relevant contribution", in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
   (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
   (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
(a) an amount prescribed by, or determined in accordance with, the regulations, and
(b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

Section 20B

(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.

(2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

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, paragraph 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.

Schedule 11, paragraph 2

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

Schedule 11, paragraph 5

(1) An application may be made to the appropriate 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.

(3) The jurisdiction conferred on the appropriate 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).

Section 47 Landlord and Tenant Act 1987

(1)Where any written demand is given to a tenant of premises to which this Part applies, the demand must contain the following information, namely—

(a)the name and address of the landlord, and

(b)if that address is not in England and Wales, an address in England and Wales at which notices (including notices in proceedings) may be served on the landlord by the tenant.

(2)Where—

(a)a tenant of any such premises is given such a demand, but

(b)it does not contain any information required to be contained in it by virtue of subsection (1),

then (subject to subsection (3)) any part of the amount demanded which consists of a service charge [F1or an administration charge] ("the relevant amount") shall be treated for all purposes as not being due from the tenant to the landlord at any time before that information is furnished by the landlord by notice given to the tenant.

(3)The relevant amount shall not be so treated in relation to any time when, by virtue of an order of any court [F2or tribunal], there is in force an appointment of a receiver or manager whose functions include the receiving of service charges [F3or (as the case may be) administration charges] from the tenant.

(4)In this section "demand" means a demand for rent or other sums payable to the landlord under the terms of the tenancy.

Withholding of service charges Landlord and Tenant Act 1985 s21

21 (1)A tenant may withhold payment of a service charge if—

(a)the landlord has not provided him with information or a report—

(i)at the time at which, or

(ii)(as the case may be) by the time by which,

he is required to provide it by virtue of section 21, or

(b)the form or content of information or a report which the landlord has provided him with by virtue of that section (at any time) does not conform exactly or substantially with the requirements prescribed by regulations under that section.

(2)The maximum amount which the tenant may withhold is an amount equal to the aggregate of—

(a)the service charges paid by him in the period to which the information or report concerned would or does relate, and

(b)amounts standing to the tenant's credit in relation to the service charges at the beginning of that period.

(3)An amount may not be withheld under this section—

(a)in a case within paragraph (a) of subsection (1), after the information or report concerned has been provided to the tenant by the landlord, or

(b)in a case within paragraph (b) of that subsection, after information or a report conforming exactly or substantially with requirements prescribed by regulations under section 21 has been provided to the tenant by the landlord by way of replacement of that previously provided.

(4)If, on an application made by the landlord to the appropriate tribunal, the tribunal determines that the landlord has a reasonable excuse for a failure giving rise to the right of a tenant to withhold an amount under this section, the tenant may not withhold the amount after the determination is made.

(5)Where a tenant withholds a service charge under this section, any provisions of the tenancy relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.

21B Notice to accompany demands for service charges

(1)A demand for the payment of a service charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charges.

(2)The Secretary of State may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.

(3)A tenant may withhold payment of a service charge which has been demanded from him if subsection (1) is not complied with in relation to the demand.

(4)Where a tenant withholds a service charge under this section, any provisions of the lease relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.

(5)Regulations under subsection (2) may make different provision for different purposes.

(6)Regulations under subsection (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

S22 Landlord and Tenant Act 1985

22 Request to inspect supporting accounts &c.
(1)This section applies where a tenant, or the secretary of a recognised tenants' association, has obtained such a summary as is referred to in section 21(1) (summary of relevant costs), whether in pursuance of that section or otherwise.

(2)The tenant, or the secretary with the consent of the tenant, may within six months of obtaining the summary require the landlord in writing to afford him reasonable facilities—

(a)for inspecting the accounts, receipts and other documents supporting the summary, and

(b)for taking copies or extracts from them.

(3)A request under this section is duly served on the landlord if it is served on—

(a)an agent of the landlord named as such in the rent book or similar document, or

(b)the person who receives the rent of behalf of the landlord;

and a person on whom a request is so served shall forward it as soon as may be to the landlord.

(4)The landlord shall make such facilities available to the tenant or secretary for a period of two months beginning not later than one month after the request is made.

(5)The landlord shall—

(a)where such facilities are for the inspection of any documents, make them so available free of charge;

(b)where such facilities are for the taking of copies or extracts, be entitled to make them so available on payment of such reasonable charge as he may determine.

(6)The requirement imposed on the landlord by subsection (5)(a) to make any facilities available to a person free of charge shall not be construed as precluding the landlord from treating as part of his costs of management any costs incurred by him in connection with making those facilities so available.

Judge F J Silverman as Chairman
Date 01 July 2021

Note:

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rplondon@justice.gov.uk.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.