



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : **LON/00BJ/LSC/2022/0202**

**Property** : **4 Foundry Mews Putney Bridge Road  
London Sw15 2NY**

**Applicants** : **205/207 Putney Bridge Road  
Management Company Ltd**

**Representative** : **Mr S Wiles, Prime Property**

**Respondent** : **Ms L Asketh**

**Representative** : **In person, assisted by Mr G Morgan-  
Mills**

**Type of  
Application** : **s27A Landlord and Tenant Act 1985**

**Tribunal** : **Judge F J Silverman MA LLM  
Mrs A Flynn MRICS**

**Date of hearing** : **25 November 2022.**

**Date of Decision** : **30 November 2022**

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## DECISION

- 1 The Tribunal determines that the service charges demanded from the Respondent amounting to the sum of £2,669.17 are reasonable in amount and are payable in full by her.**
- 2 The application is re-transferred to the Wandsworth County Court for the determination of outstanding issues.**

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**This case was heard at a face to face hearing at Alfred Place London WC1E 7EB. The documents to which the Tribunal was referred are contained in an electronic bundle the contents of which are referred to below. The orders made in these proceedings are described above.**

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## REASONS

- 1 The Respondent is long leaseholder of the property known as 4 Foundry Mews Putney Bridge Road London SW15 2NY (the property) which forms part of a small complex of buildings now converted to residential use. The complex includes communal walkway and courtyard areas.
- 2 The Respondent is the current assignee/tenant under a 150 year lease dated 26 July 1996 and made between Cobdawn Ltd as landlord and Mrs V K Hartley as tenant. In common with other lessees the Respondent has an obligation under the lease to pay a proportion of the maintenance and upkeep of the structure and common parts of the complex.
- 3 The Respondent failed to pay service charge demands served on her and the Applicants commenced a county court action to recover the outstanding sums. Those proceedings were transferred to the Tribunal by order of the county court made on 22 June 2022 and Directions were issued by the Tribunal on 13 July 2022.
- 4 The Tribunal's jurisdiction in this case extends to a determination of payability and reasonableness of service charges only. Issues relating to administration charges, interest, costs and any other outstanding matters will be dealt with by the county court after the conclusion of the Tribunal proceedings.
- 5 The Tribunal received and read the electronic bundle of documents filed by the Applicants in accordance with the Tribunal's Directions which, included both parties' statements of case referred to below.
- 6 The face to face hearing took place on 25 November 2022 at which the Applicants were represented by Mr Wiles, Managing Director of their managing agents. The Respondent appeared in person and the Tribunal agreed that Mr Morgan Mills could assist her in presenting her case.
- 7 The Respondent came to the hearing with a large bundle of documents which she wished to use in her response to the case. The Tribunal drew her attention to the Directions issued by the Tribunal and said that it would be relying only on the joint electronic bundle which had

- previously been filed. It could not permit additional documents to be introduced at this stage. The Respondent had a copy of the electronic bundle on her phone to which she had access during the hearing.
- 8 In accordance with current Practice Directions the Tribunal did not make a physical inspection of the property but was able to obtain an overview of its exterior and location via GPS software.
  - 9 Ms L Parker gave evidence on behalf of the Applicants (page 53). The Respondent had not filed a witness statement but the Tribunal agreed to treat the defence which she had filed with the county court as a witness statement for the purpose of these proceedings. Mr Morgan Mills had filed a statement which the Tribunal had read. The Tribunal was unable to place great reliance on this statement because its contents did not address the issues which were relevant to the matters under discussion before the Tribunal.
  - 10 The Respondent accepted that she had a liability to pay service charges under the lease. Her proportion is a one fifth part of the total sum and is payable by monthly advance payments. She also agreed that she had had received the s20 notices (pages 117,121,125) relating to major works and had not raised any objections in relation to them.
  - 11 The Respondent said that she had repeatedly asked for disclosure of invoices and receipts in respect of service charge items but had not received them. She was unable to produce any evidence of her requests for information from the Applicants other than her repeated references to a subject access request made under GDPR regulations (pages 12-13). The Applicants said that they had supplied the Respondent with copies of invoices and accounts but had not included them in the hearing bundle.
  - 12 The Respondent had complained to the Applicants that she considered that the method of window cleaning used by the Applicants' contractors was ineffective. The Applicants had acknowledged her complaint and with her agreement had told the cleaners not to clean the Respondent's windows in future. The sum charged to the service charge account for this item was re-credited to the Respondent and no further charge for this item had been levied since. This item is not therefore in dispute.
  - 13 A similar approach had been taken by the Applicants to the Respondent's objection to replacement windows being installed in her flat (part of the major works). Consequently, the contractors had not replaced the windows in this flat and the sum attributable to that part of the contract was recredited to her account (page 97). This item is therefore not in dispute.
  - 14 The Respondent said that the communal courtyard area had not been cleaned for three years and that she and her partner had cleaned it themselves. She said that the standard of cleaning provided by the Applicants' contractors was beyond sub-par and was similarly critical of the standard of gardening provided. In neither case did she adduce evidence to substantiate her concerns nor had she produced any alternative quotations for the works. She accepted that both these areas were the landlord's responsibility under clause 5 (a) (3) of the lease and that the charges were legitimate items under the service charge. In the absence of evidence to the contrary the Tribunal finds these sums reasonable and payable.

- 15 The Respondent objected to paying for the new bin shed essentially because she had not agreed to it. She said that she had suggested alternative designs to the Applicants but they had ignored her advice. She agreed however, that she was liable to pay her contribution towards it (page 137) and had not challenged the amount.
- 16 Although not relevant to the service charge issue the Respondent had complained that the landlords were in breach of the lease because they had allowed workmen to enter the common parts (courtyard and walkway) without giving the two days prior notice which the Respondent said was required under the lease. The Respondent had been a tenant of the property for some years prior to purchasing the leasehold interest she would therefore have been aware that the property had windows overlooking and being overlooked by the common parts. It appears that the Respondent may have misunderstood the terms of the lease which only requires notice to be given where entry to the demised premises (ie the flat itself) is required (not common parts). The Applicants said that this misunderstanding had on occasions led to the Respondent demanding that the Applicants' legitimate contractors being told by the Respondent to leave the premises (pages 132,143).
- 17 Having heard evidence from both parties and having read and considered the documents supplied, the Tribunal finds that the service charge demands and other documents were properly served by the Applicants on the Respondent and related to items which were properly chargeable to the Respondent under the terms of the lease. The Respondent having brought no substantive evidence to challenge wither the payability or amounts of these charges, the Tribunal declares them to be reasonable in amount and payable in full . The amount payable by the Respondent is £2,669.17.
- 18 The application is re-transferred to the Wandsworth County Court for the determination of outstanding issues.

19 **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 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.

### **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.



## **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.

## **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 [F1 or 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 [F2 or tribunal], there is in force an appointment of a receiver or manager whose functions include the receiving of service charges [F3 or (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.

Judge F J Silverman as Chairman  
**Date 30 November 2022**

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](mailto: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.