



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

**Case reference** : **LON/00AN/LSC/2018/0412**

**Property** : **54 and 54A Larden Road, London W3  
7SX**

**Applicant** : **Mr. S. & Mrs. M. Brough (Flat 54)  
Mr. G. Nutley and Ms. A. Cooney (Flat  
54A)**

**Represented by** : **In person at the hearing**

**Respondent** : **Cyril Freeman Limited**

**Represented by** : **Trust Property Management  
Mr. H. Davda – Director of systems and  
finance;  
Mr. N. Amos – Account Director Lorica  
Insurance Brokers.**

**Type of application** : **Application under S.27A and S.20C  
Landlord & Tenant Act 1985 for a  
determination of liability to pay service  
charges.  
Application under Sch.11 Para 5.  
Commonhold and Leasehold Reform  
Act 2002.**

**Tribunal** : **Ms. A. Hamilton-Farey  
Mr. L. Jarero BSc FRICS**

**Date and venue of  
hearing** : **27 February 2019  
10 Alfred Place, London WC1E 7LLR.**

**Date of decision** : **31 March 2019.**

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**DECISION**

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We determine that the following sums are payable by the applicants:

- **£3,561.42** in relation to insurance premiums;

- £0.00 in relation to management fees;
- £0.00 in relation to health and safety fees/report.
- The tribunal makes an Order under S.20c of the Landlord & Tenant Act 1985 that the landlord shall not recover any of the costs of proceedings in relation to this application from the service charge.
- The tribunal orders the respondent to refund £300.00 in relation to the application and hearing fees of this application to the applicants within 21 days of this decision.

### **The Application:**

1. By an application to the tribunal the applicants who are the leaseholders of the two properties known as 54 and 54A Larden Road, London W3 7SX seek a determination by the tribunal of their liability to pay service charges in particular in relation to insurance, health and safety and management fees, for the years 2016/17, 2017/18 and 2018/19.
2. Directions were issued by the tribunal and the matter was brought to a hearing on 27 February 2019. The applicants represented themselves, the landlord was represented by Mr. Davda of Trust Property Management, also in attendance was Mr. Amos of Lorica Insurance Brokers who gave evidence in relation to the insurance policy and premiums.

### **The issues in dispute:**

#### **Health & Safety:**

3. The landlord claims £240.00 + VAT in relation to the cost of preparing a health and safety report for the property.
4. The respondents say that they are required to carry out health and safety inspections in relation to the communal areas of the property; fire safety and to determine the presence of asbestos.
5. The applicants dispute the charge and say that there are no common parts to speak of, with only a small garden area which contained the dustbins to the flats. The flats themselves were approached by individual front doors both of which were located on the ground floor, with no communal hallways. The applicants also said that gutters and downpipes were all cast iron and therefore there was no asbestos in any external parts that required an inspection or any health and safety report. The applicants also said that they were not aware of any regular inspections carried out by the landlord, although accept that they had met a member of the landlord's staff on one occasion.
6. It appears to the tribunal that the landlord has approached the issue of health and safety as if this were a block of flats, where there would be some responsibility to ensure that the communal parts were safe, and to investigate whether there was any asbestos that required identification. It

does not appear to the tribunal that it was necessary in this instance for a health and safety inspection to have taken place. The landlord already holds public liability insurance in relation to the common parts that would cover any trips or falls in the very small garden area.

7. The tribunal disallows the cost claimed for the inspection and consider this cost is not reasonable and not payable by the applicants.

**Insurance:**

8. The applicants say the insurance premium claimed by the landlord is more than four times the quotation they have been able to obtain for the flats. The applicants provided evidence of web searches and quotations in relation to insurance premiums which were lower than the amount charged by the landlord.
9. Mr. Amos from Lorica Insurance Brokers gave evidence on behalf of the landlord and said that the landlord had a large block policy which included the two flats in Larden Road. That the basis of cover was a 'Property Owners' policy that was different to the 'Owner Occupier' policy evidence provided by the applicants. He said that the landlord's insurance included cover for breach of covenant, the policy covered any mortgagees as a joint policy between the landlord and tenants. As well as public, employers' liability and terrorism cover. Mr. Amos told the tribunal that mortgagees insisted on terrorism cover even areas such as W4 where there appeared to be little chance of terrorist attacks but confirmed that the cover extended to claims by leaseholders who were prevented from accessing their properties, when there was an incident in close proximity and the emergency services had erected a cordon.
10. He also said that the lease required insurance cover to be comprehensive and that the comparable quotations supplied by the applicants were not of similar insurance cover and were therefore cheaper. He had not studied the comparable quotations in detail but suggested that the reinstatement values were different and although the applicants' policies referred to being in joint names, this was not the same as the landlord's policy. He said the mortgagees insisted that policies were in joint names, but one had to read the notes that accompanied any policy to interpret exactly what was included in the cover.
11. The applicants continued to suggest that the insurance premiums were too high.
12. The tribunal explained to the applicants that following case law, it had been determined previously that a landlord did not have to choose the cheapest insurer and was free to obtain insurance at a market rate.
13. In the circumstances, the tribunal determines that the applicant's evidence does not show like-for-like insurance that is required for all policies. On

balance we find the applicants to be liable for the insurance premiums of **£3,561.42.**

**Management Fees:**

14. The parties had agreed a management fee of £250.00 per unit per annum, however during the hearing the tribunal found that the lease makes no provision for the payment of a management fee to the landlord, and therefore disallows any claim in relation to such fees.

**Application under S.20C.**

15. The tribunal determines that the lease makes no provision for the landlord to recover the costs of these proceedings from the applicants but for the avoidance of doubt, makes an Order that none of the landlord's costs of proceedings shall be added to the service charge for the properties.

**Reimbursement of Fees:**

16. The applicants requested that their fees for making the application, preparing their case and attending the hearing should be refunded by the respondent. The tribunal finds that the respondent should refund a total of £300.00 to the applicants in relation to the application and hearing fees but makes no order that any other costs are to be recovered by the applicants. The tribunal considers that parties should bear some of the costs of making an application themselves and those for photocopying and attendance should be considered to be the parties own costs.

**Name:** Aileen Hamilton-Farey      **Date:** 31 March 2019.