FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**CAM/34UG/LIS/2019/0016**
Property	:	1 Brackley Lodge Mews, Brackley, Northants NN13 7HP
Applicant	:	Andrew Li (in person)
Respondent	:	Brackley Mews Management Ltd
Representative	:	Simon Bingham (managing agent & co secretary)
Type of Application	:	Determination of the reasonableness and payability of service charges levied for the period 2007–2019 [LTA 1985, s.27A]
	:	for an order for repayment by the respondent of any service charges overpaid by the applicant
	:	for a declaration that the landlord is not entitled to withhold granting a certificate to satisfy a restriction on the title (to enable assignment of the lease) based upon alleged service charge arrears
	:	for an order that the landlord's costs are not to be included in the amount of any service charge payable by the tenants [LTA 1985, s.20C]
	:	for an order for costs and/or reimbursement of fees [Tribunal Procedure (FTT) (PC) Rules 2013, r.13(1)(b)]
Tribunal Members	:	G K Sinclair & M Krisko BSc (Est Man) FRICS
Date and venue of Hearing	:	Monday 25th November 2019 at Holiday Inn, Bedford Road, Northampton NN4 7YF
Date of decision	:	24th January 2020

DECISION

Cases referred to :

Akorita v Marina Heights (St Leonards) Ltd [2011] UKUT 255 (LC)
Arnold v Britton [2015] UKSC 36; [2015] AC 1619
Bucklitsch v Merchant Exchange Management Co Ltd [2016] UKUT 527 (LC)
Cain v Islington LBC [2015] UKUT 542 (LC); [2016] L&TR 13
Pendra Loweth Management Ltd v North [2015] UKUT 91 (LC); [2015] L&TR 30
Shersby v Grenehurst Park Residents Co Ltd [2009] UKUT 241 (LC)
Stangate Mansions Ltd v Karbasi LON/00BD/LSC/2018/0442
Urban Splash Work Ltd v Ridgway [2018] UKUT 32 (LC), at [77]
Wigmore Homes v Spembley Works Residents Assoc [2018] UKUT 252

- Determination .... paras 1–5
- Relevant provisions in the lease .... paras 6–11
- Material statutory provisions .... paras 12–19
- The hearing .... paras 20–40
- Discussion and findings .... paras 41–48

1. In this application the applicant lessee seeks a determination that, due to certain failings by the lessee-owned freeholder company over the course of many years to comply with provisions in the lease and statute law that impose preconditions upon the individual lessee's liability to pay service charges, sums that he has paid and more recent sums that he has not should be declared not to be payable, so that any overpayment by him must be reimbursed by the respondent company.

2. He also seeks an order under section 20C of the Landlord and Tenant Act 1985 and also, "in the event that any costs are incurred by the applicant", a wasted costs order against the respondent or a third party costs order against "the current and/or all relevant former directors personally."

3. Finally, he seeks a determination that the respondent cannot withhold granting a certificate required by a restriction on the leasehold title, thus enabling him to assign the lease, on the basis of alleged service charge arrears.

4. For the reasons which follow the tribunal determines that, insofar as the service charge aspects are concerned :
   a. The applicant had for many years paid the service charges demanded and his agreement or admission, which precludes a determination of the reasonableness of service charges under s.27A of the Landlord and Tenant Act 1985, may be implied or inferred from the making of a series of payments of service charges over a period without qualification or protest: see *Cain v Islington LBC* [2016] L&TR 527 (LC), following *Shersby v Grenehurst Park Residents Co Ltd* [2009] UKUT 241 (LC)
   b. The more recent, and partly unpaid, service charges have been the subject matter of an express, post-dispute agreement between the parties as to the size of the overall debt and means of payment, plus the apportionment of instalments as between past and current liabilities
   c. As payment has been agreed, the tribunal lacks jurisdiction to determine the reasonableness and payability of the service charges concerned : see

section 27A(4)

d. The tribunal therefore declines to order the repayment to the applicant of any amount levied in the period in question by way of service charge

e. As the tribunal lacks jurisdiction to make any determination under section 27A then the peripheral applications concerning costs, under section 20C and/or under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, must also fall away.

5. Whether the respondent freeholder may impose a condition not mentioned in the lease as a condition precedent to the grant of a certificate permitting assignment, the answer to which seems rather straightforward, is not a matter falling within the jurisdiction of this tribunal and therefore on that ground it must decline to make the declaration sought.

Relevant provisions in the lease

6. The applicant's lease dated 30th August 2002 is tripartite, with Living Heritage Developments Ltd identified as "the Company" (freeholder/landlord), Brackley Mews Management Ltd as "the Management Company", and Johanna Hackett as "the Purchaser" (lessee). The premises were demised for a term of 999 years at an annual rent of £150, and by clause 2.14 the service charge is defined as :

> 8% of the expenses incurred during the financial year in question as set out in Part II of the Seventh Schedule plus in each case such sums as the Management Company shall in its absolute discretion determine for use as a sinking fund against anticipated future expenditure...

7. By clause 2.1 the Purchaser covenants with the Company to observe and perform the covenants and obligations set out in the Sixth Schedule, and by clause 3 with the Company and separately with the Management Company to observe and perform those set out in the Seventh Schedule. By clause 4 the Company grants rights of entry to the Management Company and it reciprocates by covenanting to observe and perform the obligations in the Eighth Schedule. By clause 6 the Management Company covenants with the Purchaser to observe and perform the covenants and obligations in the Ninth Schedule.

8. The Management Company has since acquired the freehold from the Company, thus simplifying the parties' respective obligations.

9. On the issue of service charges paragraphs 2.2 and 2.3 of Part I of the Seventh Schedule provide the mechanism for payment : first, to pay on 25th March what the Management Company regards as a fair and reasonable interim payment on account of the service charge for that financial year; and secondly upon receipt of the accountant's certificate (as defined in paragraph 13 of the Eighth Schedule) forthwith to pay to the Management Company the balance (if any) after allowing for the payment on account.

10. Much stress was placed by the applicant on the Management Company's failure to comply with this certification process, so it is useful at this point to set out in full paragraphs 12 to 14 of the Eighth Schedule :

> 12. The Management Company shall comply with the provisions of the Companies

> Act and keep proper books of account of all costs and expenses incurred by it in carrying out its obligations hereunder and an account shall be taken as soon as practicable on or after the end of each financial year during the term of the amount of those costs and expenses incurred since the commencement of this demise or the date of the last preceding account as the case may be after deducting interest (if any) received on cash in hand (less any appropriate provision for tax on that interest)
>
> 13. The account taken in pursuance of the last preceding paragraph shall be **prepared and audited** by a Chartered Accountant who shall issue a certificate ("the Accountant's Certificate") of the total amount of the said costs and expenses (**including the audit of the accountant**) for the period to which the account relates and the Service Charge due from the Purchaser to the Management Company pursuant to clause 2 of Part I of the Seventh Schedule hereof *[emphasis added]*
>
> 14. The Management Company shall within two months of the date of the date to which the account provided for in paragraph 14 of this Schedule is taken serve on the Purchaser a notice in writing stating the total and the Service Charge specified by and certified in accordance with the last preceding paragraph

11. On the non-service charge point raised by the applicant he relies upon paragraph 3 of Part I of the Seventh Schedule, viz :

> Not to assign or transfer the demised premises except by way of assignment or transfer of the whole of the residue of the term to an assignee or transferee who the Purchaser shall procure shall prior to the proposed assignment or transfer :–
>
> 3.1 Apply in writing for membership of the Management Company
>
> 3.2 By a separate Deed prepared at the cost of the assignee or transferee enter into a direct covenant with the Company and the Management Company and each of them substantially in the form set out in the Eleventh Schedule to observe and perform the covenants on the part of the Purchaser contained in this present lease whilst the lease is vested in him and such Deed shall contain a further covenant not to assign or sub-let or part with possession of part only of the demised premises and not to assign or transfer or sublet the whole of the demised premises except as hereinbefore provided without procuring that the proposed assignee transferee or sub-lessee enters into a direct covenant with the Company and the Management Company substantially in the form set out in the Eleventh Schedule.

Material statutory provisions

12. Section 18 of the Landlord and Tenant Act 1985 defines the expression "service charge," for the tribunal's purposes, as :

> 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...

13. The overall amount payable as a service charge continues to be governed by section 19, which limits relevant costs :
    a. only to the extent that they are reasonably incurred, and
    b. where they are incurred on the provision of services or the carrying out of

works, only if the services or works are of a reasonable standard.

14. The tribunal's powers to determine whether an amount by way of service charges is payable and, if so, by whom, to whom, how much, when and the manner of payment are set out in section 27A of the Landlord and Tenant Act 1985. The first step in finding answers to these questions is for the tribunal to consider the exact wording of the relevant provisions in the lease. If the lease does not say that the cost of an item may be recovered then usually the tribunal need go no further. The statutory provisions in the 1985 Act, there to ameliorate the full rigour of the lease, need not then come into play.

15. Sub-section (4), which is highly material in this case, provides that :

    No application under section (1) or (3) may be made in respect of a matter which –

    (a) Has been agreed or admitted by the tenant…

16. Please also note sub-sections (5) & (6), which provide that a tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment, and that an agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement)[1] is void in so far as it purports to provide for a determination in a particular manner or on particular evidence of any question which may be the subject of an application to the Tribunal under section 27A.

17. Insofar as relevant major works are concerned, ie those in respect of which the contribution of any tenant liable to pay towards the service charge will exceed £250, then section 20 provides that the relevant contributions of tenants are limited to that amount unless the consultation requirements have been either complied with in relation to the works or dispensed with by (or on appeal from) the appropriate tribunal. The consultation requirements, in the instant case, are those appearing in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) (England) Regulations 2003[2] (as amended).

18. Two further provisions, concerning demands for payment of service charge, have been put in issue or are relevant to this case. First, by section 47 of the Landlord and Tenant Act 1987, where any written demand is given to a tenant of premises for rent or other sums payable under the lease (which expression would include a demand for payment of service charge), the demand must contain the name and address of the landlord and, 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. If the demand does not include such information then any part of the amount demanded which consists of a service charge 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.

19. Secondly, since 1st October 2007 section 21B of the 1985 Act provides that a

[1] Eg. provisions in a lease stating that the landlord's accountant's certificate shall be conclusive, or that any dispute shall be referred to arbitration

[2] SI 2003/1987

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. The content of that summary is prescribed by the Service Charges (Summary of Rights and Obligations, and Transitional Provision) (England) Regulations 2007.[3] The document must contain the prescribed heading and text and must be legible in a typewritten or printed form of at least 10 point.[4]

The hearing

20. At a hearing well attended by a large number of lessees the applicant appeared in person and Simon Bingham, managing agent and company secretary, acted for the respondent freeholder and management company. The tribunal had before it a bundle comprising 576 pages to which, during the hearing, the respondent added a 16-page "Statement of Case" – effectively submissions on points relevant and irrelevant/outwith the tribunal's jurisdiction. Neither party had submitted a detailed witness statement, save that the respondent had included a number of letters (one [472–475] signed by 15 lessees), including one from Edmund Cartwright, an accountant at Haines Watt [465]. He gave oral evidence on the issue of audits and certification of accounts and left with a tribunal a copy of ICAEW Technical Release Tech 03/11, providing guidance on accounting and reporting in relation to service charge accounts for residential properties on which variable service charges are paid in accordance with a lease or tenancy agreement.

21. In purported compliance with tribunal directions a schedule had been prepared listing issues in dispute [387–389]. All fourteen of them concerned a procedural point. No issue was raised by the applicant concerning the cost or quality of management, or of any major works undertaken, so that apart from Mr Cartwright's evidence, the case largely proceeded on the basis of argument about law, procedure, and whether any concluded agreement on liability was reached in correspondence between the parties.

22. The points listed on Mr Li's schedule of disputed charges are set out in the Schedule annexed to this Decision.

23. Mr Li, who confirmed that he was legally qualified, in his statement of case and his opening remarks to the tribunal, quoted passages from *Woodfall on Landlord & Tenant* and from extensive case law to justify his non-liability for payment, and why he should be reimbursed for all the service charges that he had, erroneously, paid in past years.

24. On the length of time during which he had paid without objection, and its effect in law, the tribunal referred Mr Li at the outset to *Shersby v Grenehurst Park Residents Co Ltd*[5], to which he countered with *Bucklitsch v Merchant Exchange Management Co Ltd*, at para [25].[6] The point of that decision, he argued, was

[3] SI 2007/1257

[4] *Op cit*, reg 3

[5] [2009] UKUT 241 (LC)

[6] [2016] UKUT 527 (LC)

that the rights afforded by statute would require a very high bar to overcome and remove them. In *Bucklitsch* the tenants had been there 11 years, and attended all meetings, agreeing unanimously to all decisions at meetings. According to HHJ Huskinson this was still not enough to waive their rights under s.27A(5).

25. In this case he was not aware of all facts, there was a time when he was away, and only recently had he turned his mind to numerous breaches of both the lease and statute. It does not make it right, and it is wrong for the landlord to benefit from its breach.

26. He took the tribunal through the various years' service charge accounts. The most recent had been audited, but most were not. The 2016 account, at [165], even included a note from the accountants drawing attention to para 13 of the 8th Schedule, stating that the fact that the accounts had not been audited was therefore a breach, and that this would be raised at the next AGM. Many sets of accounts had also been signed by or on behalf of the managing agents; not by the management company itself.

27. Mr Li referred to the case of *Akorita v Marina Heights (St Leonards) Ltd*[7] and to *Woodfall* in his application. It was patently clear that the landlord had not satisfied the requirements of the lease and, following the leading judgment of Lord Neuberger in *Arnold v Britton*[8], the importance of the language used in the document must not be diminished by placing reliance on commercial common sense, and there is also no special principle of interpretation that service charge clauses are to be construed restrictively.

28. Mr Li also observed that no estimated demands were raised. They were all final demands. Reference was made to the demand letter at [107], dated March 2009 and addressed "To All Members", seeking payment of the 2009-10 service charge. It was signed by SJB Properties for the management company, stated that payment could be made by cash or cheque at their offices, and that cheques be made payable to Brackley Mews Management Ltd. It was put to him that this was clearly a demand for an advance payment, but that – given the flexibility granted to the management company when fixing the amount to be applied to reserves for future expenses – the amount levied annually remained constant for years.

29. On the issue whether service charge demands issued were accompanied by the prescribed summary of tenant's rights and obligations Mr Li conceded that he had filed no evidence to the effect that no such summaries had been received by him. He merely stood by his application and statement of case. Mr Bingham, who apart from a few years was the appointed managing agent for the property, assured the hearing that such summaries had accompanied all demands, and his assistant – who would have arranged this – was by his side.

30. On the question of reasonableness Mr Li referred to the Upper Tribunal decision in *Wigmore Homes v Spembley Works Residents Assoc*[9], where the tribunal said

[7] [2011] UKUT 255 (LC)

[8] [2015] UKSC 36; [2015] AC 1619

[9] [2018] UKUT 252

that the absence of proper certification may be relevant to reasonableness but, citing comments by the Deputy President, Martin Rodger QC, in *Urban Splash Work Ltd v Ridgway*,[10] that :

> It may well be the case that, ordinarily, non-compliance with a certification regime will not prevent a landlord from recovering service charges payable on account... but, if so, that is because payments on account are likely to be set by reference to an estimate of future expenditure, rather than by the definitive certification of past expenditure. Even on account charges may require certification before they become payable... In every case the function and significance of the certificate will depend on the terms of the agreement.

31. In this case, of course, no challenge was made by Mr Li to the cost, quality or reasonableness of any specific item.

32. On his point that the demands did not comply with section 47 of the Landlord and Tenant Act 1987 by giving the name and address of the landlord the tribunal directed his attention to the letter at [107] asking for payment to be made to Brackley Mews Management Ltd (which was also the landlord), but also to the case of *Pendra Loweth Management Ltd v North*[11] which confirmed that the "demand" to which section 47 applies is defined in section 47(4) as a demand for rent or other sums "payable to the landlord"; the definition of "landlord" in section 60(1) is not extended to include any person with the right to enforce payment of a service charge

33. Thus far a number of procedural issues had been identified by the applicant, and they did not inspire confidence. Another, noted by the tribunal, was some bold advice to lessees (and members of the respondent company) in a letter dated 18th March 2019 [67–70] that where lessees were also members of the management or freehold company consultation it is not sensible to go down the formal route of compliance with section 20 of the 1985 Act, as it would only add unnecessarily to the cost.

34. However, it was now the respondent's turn to address the tribunal and direct its attention to an exchange of emails beginning on 13th March 2018 and leading, it was said, to an agreement by Mr Li to pay a fixed sum by way of arrears and his current obligation by instalments. In reverse order, this exchange appears at [447-450]. It starts with an email to Mr Li which followed a discussion in which he wanted to make a proposal for payment of his arrears. Figures were mentioned, followed by a reply from Mr Li in which he referred to setting up a payment of £500 per month. He went on :

> This £500 a month is to cover the **agreed** outstanding debt as per my proposal that you have outlined below and all future service charge payments.
>
> I believe the 50% reduction of the disputed debt is a fair result all round.

[emphasis added]

10 [2018] UKUT 32 (LC), at [77]

11 [2015] UKUT 91 (LC); [2015] L&TR 30

35. Mr Morello replied on 27th March 2018, ending with the comment :

> Finally, are you happy that this exchange of emails is sufficient for this to be a legally binding agreement, or do you think we need to draft a formal document for both parties to sign?

36. The critical reply from Mr Li to Robin Morello, dated 9th April 2018, reads :

> Hi Robin
> Hope you are well. Thank you for your email.
> I have 2 standing orders set up per calendar month as follows :
> 1 for £185.82 representing the current financial year. This is set up for the 1st of each month. The first payment left on 1 April.
> 1 for £314.18 to go towards the **agreed** balance outstanding from previous years. This is set for the 26th of each month. The first will be on 26 April.
> I wanted to keep the two separate so I could more readily keep track of things, and also to coincide with my payroll.
> The total to be paid per calendar month remains the same - £500.
>
> *[emphasis added]*

37. In his closing submissions Mr Li sought to distinguish between an agreement on liability and a mere mechanism for payment.

38. On the obligation in the lease to produce audited service charge accounts the respondent called Mr Cartwright of Haines Watt. He agreed that the accounts should comply with the lease, and it was put to him by Mr Li that it should contain two things : first the total amount of costs; and secondly, the service charge due from the purchaser to the management company. He replied that there is a technical release from the ICAEW, RICS, etc and this provides agreed guidance concerning the stipulation of precise apportionments.

39. When directed to the terms of Schedule 8, he referred to a passage on page 3 to the effect that accounting for service charges and auditing are substantially the same, and to paragraphs 3.1.1 & 2 on page 7. He said that he thought this lease has been part of a pro forma used for many years, and directed the tribunal to the procedures at page 18 for audit of service charge accounts. By contrast, audits for large companies take weeks, and the requirements are fifty times more than this. There was, he suggested, not a huge difference between Appendix E and F. They were almost identical in terms of the work to be carried out.

40. In his closing submissions Mr Li referred the tribunal to the First-tier Tribunal's decision in *Stangate Mansions Ltd v Karbasi*[12], where failure to comply with the procedures specified in the lease led to an order for repayment of a substantial sum to the tenant, and to section 27A(5) and the fact that payment does not constitute an admission of liability.

Discussion and findings

41. For very many years Mr Li paid his service charges, sometimes when demanded and sometimes late, or only partially. The tribunal directed his attention to the Upper Tribunal's decision in *Shersby v Grenehurst Park Residents Co Ltd*, where

[12] LON/00BD/LSC/2018/0442

HHJ Huskinson said, at [44] :

> As regards the years 1997 to 2004 inclusive I accept Mr Bhose's argument that the Appellant is not entitled to make an application under section 27A in respect of these payments. I find that he has agreed or admitted these sums and that section 27A(4) prevents his application in respect of these years. As regards section 27A(5) this provides that the Appellant is not to be taken to have agreed or admitted any matter by reason only of having made any payment. However, the Appellant has done substantially more than merely make payments in respect of these years. He has not only made the payments but has waited a long time (namely until the 2007 application) before seeking to challenge them, and has in the meantime made a separate application to an LVT raising various matters regarding services charges but not raising any matter as regards these insurance premiums. The 2005 proceedings were then withdrawn without the insurance premiums ever being raised as an issue. The combination of these repeated payments, without any complaint or reservation, coupled with the lapse of time and with the express challenging in formal 2005 proceedings of certain matters (but not these insurance matters) leads me to conclude that the Appellant must be taken to have agreed or admitted these premiums.

42. *Shersby* was approved and followed by HHJ Gerald in *Cain v Islington LBC*[13], at [25] :

> The question is whether there are any facts and circumstances from which the F-tT could properly have found that the appellant had agreed or admitted the service charge items in respect of the 2001/02 to 2006/07 period he now seeks to challenge. In my judgment, the F-tT was entitled to so find based purely upon the series of payment in respect of the demanded service charge throughout this six year period, and subsequently, without reservation, qualification or other challenge or protest. That of itself is sufficient. This is, however, reinforced by the sheer length of time which has elapsed before challenge was first made—between eight years in respect of the 2006/07 service charge and 12 years for the 2001/02 service charge. Whilst distinctions can be made between the nature of the different service charge items being challenged, the F-tT is entitled to look at matters in the round and find that where there has been substantial delay in making any challenges to the items now in dispute, and most if not all of which have long-since been paid, that the tenant has agreed or admitted the amounts claimed which, after all, have long-since lain dormant without challenge.

43. By contrast, in *Bucklitsch v Merchant Exchange Management Co Ltd*[14] only one year’s service charge was in dispute, and it was unclear to the judge exactly what documents in what form were received when by the appellants in that case in relation to any allegedly relevant service charge.

44. In this tribunal’s determination the payment of service charges by Mr Li without complaint over many years means that, insofar as those amounts are concerned, he has agreed them and section 27A(4) prevents the tribunal from re-opening the matter.

[13] [2015] UKUT 542 (LC); [2016] L&TR 13

[14] [2016] UKUT 527 (LC)

45. As for more recent events, the tribunal regards Mr Li's attempt to argue that what he had agreed in 2018 was only a mechanism for payment, while leaving the question of liability to pay unresolved, is entirely lacking in merit. By agreeing a reduction of 50% in historic arrears and setting up arrangements for paying both those arrears and his current liabilities he was reaching a binding agreement concerning the remaining service charge periods that he seeks to challenge in this application. Section 27A(4) prevents him from applying to the tribunal to make any such determination.

46. While some of the procedural matters raised should encourage the respondent to adopt a less casual approach in future, the agreement by the applicant to pay the sums that he now seeks to challenge means that this application must be dismissed.

47. The consequential orders sought for repayment, under section 20C, and for costs are also dismissed.

48. The applicant's request that the tribunal make a declaration concerning the respondent's ability to impose conditions upon the grant of a certificate entitling an assignment to a prospective assignee who complies with the lease terms is not, however, a matter within this tribunal's jurisdiction.

Dated 24th January 2020

Graham Sinclair
First-tier Tribunal Judge

APPLICANT'S SCHEDULE OF DISPUTED SERVICE CHARGES

1. No audited accounts for service charge years 1 April 2007 – 31 March 2019 prepared by a chartered accountant as required under the lease (failure to comply with machinery in the lease). Audited accounts are a pre-condition in being able to determine service charge amounts (see para 13 of the 8th Schedule, and Part 1 of the 7th Schedule to the lease)

2. No accountant's certificate issued to the applicant by a chartered accountant for any service charge years 1 April 2007 – 31 March 2019 in accordance with the lease (failure to comply with the machinery in the lease). The accountant's certificate is a pre-condition in being able to determine service charge payability (see para 13 of the 8th Schedule, and Part 1 of the 7th Schedule to the lease)

3. No management company notice issued to the applicant for any service charge years 1 April 2007 – 31 March 2019 as required by para 14 of the 8th Schedule to the lease (failure to comply with the machinery of the lease necessary to determine service charge payability)

4. No service charge demands provided by the respondent for service charge years 1 April 2015 – 31 March 2019 as required under Part 1 of the Directions

5. No evidence of accompanying statement of tenant's rights and obligations issued with the "demand" (statutory failure – s.21B Landlord and Tenant Act 1985)

6. No evidence the consultation was followed (statutory failure – s.20–20ZA Landlord and Tenant Act 1985)

7. Failure to provide full name and contact details of the landlord on the face of any "demand" in accordance with statute (statutory failure). See s. 47 LTA 1987

8. No name of the leaseholder on the "demand" in accordance with the lease or statute. NB the leaseholder is Mr A. Li only. See clause 10 of the lease

9. No address of the leaseholder on the "demand" in accordance with the lease or statute. The purported demand is a generic description all members of the management company. See clause 10 of the lease

10. Purported "demand" is not in accordance with other lease provisions e.g. failure to state whether payment is due in advance or arrears or interim (failure to comply with machinery in the lease).

11. No address provided for the leaseholder to serve notices or complaints to (statutory failure)

12. The landlord has so far failed to provide invoices to substantiate the entire amount demanded through the service charge demands issued (statutory failure) nor allowed the applicant to inspect (statutory failure – s.22 Landlord and Tenant Act 1985, thereby also committing a criminal offence under s.25)

13. As a result of the respondent's failure apply with the requirements contained in both the lease and statute, it is impossible to determine whether any costs incurred are in fact reasonable in accordance with s.19 of the Landlord and Tenant Act 1985. The applicant is clearly unable to consider the reasonableness of quantum without the full machinery of the lease having first been complied with by the respondent

14 . The applicant is therefore not prepared to make any payment respect of service charge years 1 April 2007 – 31 March 2019 and requires immediate repayment from the respondent sums already paid to the respondent