



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

**Case reference** : **LON/00AG/LSC/2022/0342 &  
LON/00AG/LSC/2022/0220**

**Property** : **Flat 11, 65 Priory Road, NW6 3NH**

**Applicant** : **Virenda Mohan Khanna**

**Representative** : **In person**

**Respondents** : **65 Priory Road Ltd**

**Representative** : **Taylor Briggs of Counsel**

**Type of application** : **Determination of payability and  
reasonableness of service charges  
pursuant to s27A LTA 1985**  
**Judge Shepherd**

**Tribunal** : **Richard Waterhouse FRICS**

**Date of Decision** : **12<sup>th</sup> May 2023**

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**Decision**

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1. This case was heard on 30<sup>th</sup> March 2023. The Tribunal is grateful to the representatives on behalf of the parties, Mr Khanna in person and Ms Briggs of Counsel for the Respondents.
2. The case concerns Flat 11 Parsons Lodge , 65 Priory Road, London Nw6 3 NH (“The premises”) . 65 Priory Road is a purpose built block of five one bedroom and nine 2 bedroom flats. The block was built in 1993. The lessees of the flats own shares in the Respondent company.
3. The case concerns a dispute over various items of service charges levied for the period 1/7/16 -31/12/16 (“The first period”) and the period thereafter up to 31<sup>st</sup> December 2021 ( “The second period”).
4. Parsons Lodge was previously owned by Gerald Nock. On 24<sup>th</sup> June 2016 the leaseholders acquired the freehold under the company Parsons Lodge Freehold Ltd. The Respondents are the management company and they have used managing agents including ABC, Des Res and Whitestones.
5. In 2014 the Applicant together with his son took an assignment of a lease dated 9<sup>th</sup> September 1992 of Flat 11, a third floor flat. The lease terms were uncontroversial.
6. The Applicants alleged that a number of charges were not reasonably incurred. The issues were summarised in lengthy Scott Schedules. Some of the challenges were withdrawn at the hearing. Ms Briggs had spent a considerable amount of time discerning the arguments being put forward and in responding to the arguments in her own scott schedules. We are grateful for her assistance in guiding the Tribunal through the extensive and confusing paperwork.

### **The relevant law**

7. The law applicable in the present case was limited. It was essentially a challenge to the reasonableness of the costs. There was no challenge in relation to payability under the lease, an alleged failure to consult or limitation.
8. The Landlord and Tenant Act 1985,s.19 states the following:

*19.— Limitation of service charges: reasonableness.*

*(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 provision 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.*

....

9. The Tribunal's jurisdiction to address the issues in s.19 is contained in s.27A Landlord and Tenant 1985 which states the following:

*27A Liability to pay service charges: jurisdiction*

*(1) An application may be made to [the appropriate tribunal]<sup>2</sup> 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]<sup>2</sup> 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.*

*(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 of an application under subsection (1) or (3).*

*(7) The jurisdiction conferred on [the appropriate tribunal]<sup>2</sup> in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter.*

### ***The First Period***

#### **£2000 – Insurance related payment**

10. The Applicant alleged that this was not recoverable under the service charge but said that it should be recovered from the insurance. It related to a water leak. There was no evidence that the leak could be attributed to a particular flat. Ms Briggs said the sums were recoverable under the lease. The insurance policy carried an excess. The Respondents made the claim and paid the excess. She said the excess was reasonably and properly incurred under the lease. The leak was from Flat 6 into Flat 3.

#### **£891- Insurance related payment**

11. The Applicant alleged this was not recoverable. It related to a hotel bill for a displaced party following the water ingress. Ms Briggs said the cost was

recoverable as it was “reasonably and properly incurred in connection with the building” ( per the lease) and therefor recoverable under the lease.

**£600 – cost of managing agents (a common challenge for all of the years in question)**

12. The Applicant said that no works were carried out. The accounts were incorrect. He had a number of other criticisms. Ms Briggs referred to clause 6.2.7.1 of the lease which allowed the Respondents to employ managing agents. She said that accounts had been prepared by ABC. No alternative quotes were provided.

**£9400 – claim from insurance**

13. Ms Briggs explained that although this sum was challenged it was not a service charge item. It was the costs recovered from insurance and it had not been demanded from lessees. There was no evidence that the sum claimed had been exaggerated.

**£3024 – management fee in relation to major works**

14. The Applicant challenged these fees on two bases. Firstly, that there should have been a s.20 consultation and secondly that the contract was a QLTA and consultation was required on this basis. Ms Briggs said that the managing agents work did not fall within the meaning of works in s.20 Landlord and Tenant Act 1985 – relying on *Paddington Walk Management Ltd v Peabody Trust* [2010] L&TR 6. Secondly, she said the contract was not a QLTA because the terms were such that a QLTA was avoided not least the term was deliberately a 1 year less 1 day.

**£600- accounting costs**

15. The Applicant said the accounts were substandard. They were shambolic and didn't comply with the letter of appointment. He said that no sums were due in his opinion. Ms Briggs said the Respondents were entitled under the lease to recover the sums. Platts prepared the accounts for 2016 and the cost was reasonable.

***The second period*****£1086 – invoice for electrical works**

16. The Applicant said the work was within a flat and therefore the cost was not recoverable from the service charge. Ms Briggs said that the maintenance of electrical cables used in common could include cables within a flat. She accepted however that there was no evidence either way on the point.

**£1050 – lift repairs**

17. The Applicant alleged that this was duplicate work that was charged fraudulently by a company connected with the managing agents. Ms Briggs took the Tribunal through the sequence of works to the lift and argued it was not duplicate work.

**£403 – out of hours helpline**

18. The Applicant said this was not a reasonable charge. Ms Briggs said it was recoverable under the lease and it was a contract that was used.

**£119.76 - Aerial works**

19. The Applicants complained that these works were to an individual flat and the cost should not be recovered from the service charge. The Applicant conceded the cost during the hearing.

**£1920 – construction of bin store**

20. The Applicant said the cost was excessive. The Tribunal were shown photographs of the bin store. Ms Briggs said the cost was payable and reasonable.

**£4695 – insurance premium**

21. The Applicant said the costs were excessive and there was an over valuation of the building's value. Ms Briggs said he had failed to identify alternative quotes save for a reinstatement cost assessment for insurance purposes. She said the insurance premiums had been obtained via brokers at arms length.

**£1788 – lift works**

22. This was part of a series of invoices for works to the lift which the Tribunal had been shown.

**£96 – LED lights**

23. The Applicant alleged this was duplicate work. Ms Briggs said it was clearly different work as the invoices were over a year apart.

**£120 and £192**

24. The Respondents were unable to justify these costs as no invoices were provided.

**£1500 – specification**

25. The Applicant said there was no specification. Ms Briggs was unable to identify a specification document.



26. **£300** – Ms Briggs was able to identify where the payment was made.

**£180 – Debt collection**

27. The Applicant challenged the payability of this cost. Ms Briggs demonstrated it was payable.

**£306.47 -Aerial works**

28. Ms Briggs said that these were recoverable even if within a flat.

**£550 – gardening works**

29. The Applicant said this looked like an unusual payment to a gardener. Ms Briggs denied this.

**£1608 – tiling works**

30. The Applicant said the works were too expensive. He said they were carried out by a cleaning firm. He said that a builder he knew “Danny” quoted £700. Ms Briggs said the costs were reasonable.

**Insurance - £6258**

31. The Applicant again claimed the building was over valued. Ms Briggs said valuation was not an exact science. It was prudent to over value.

**Insurance not gone into service charge account**

32. This was not within the Tribunal’s jurisdiction

**£720 - Lift works**

33. The Applicant said the works were carried out by a handyman. Ms Briggs said it was a tradesman and the works were carried out.

**£600 -lift works**

34. This work was carried out by Sinclair Builders and was a continuation of the lift works.

**£690 – lift works**

35. The Applicant claimed these were duplicate works. This was denied by Ms Briggs who demonstrated that there were separate invoices on different dates.

**£78 – electrical works**

36. Ms Briggs said the cost was reasonable.

**£720, £960, £960 – preparation of specifications**

37. There were no full specifications. Apparently the cost related to preparing bullet point summaries for contractors.

**£859.20 – new sign**

38. This was for a new sign to the building. The Tribunal were shown a photograph.

**£960 and £480 – construction of gas boxes.**

39. The Applicant said the costs were high and the work of poor quality. Ms Briggs said the works were adequate. Gas boxes were needed.

**£550 – further challenge to accounting costs**

40. The Applicant said the accounts were unreliable with no guarantee as to their accuracy. He provided no comparable costs.

**£920 -managing agent's cost**

41. The Applicant complained that the charge had been made after the termination of the contract. Ms Briggs explained that the managing agent had been dealing with multiple queries from the Applicant and the contract allowed recovery. It was not clear when the work had been done.

**£60 – erection of sign**

42. The Applicant said simply that the cost did not look right.

**£540 – expenditure by managing agent**

43. The Applicant said the managing agent was not entitled to this as the contract had been terminated. Ms Briggs said the work was still potentially within the contract.

**£720 or £1270 – accounting fees**

44. The Applicant repeated that the works were substandard. Ms Briggs said the Applicant had complained about all of the three sets of accountants. The sums were reasonable and no comparables had been provided.

**£1911.35 – management fee**

45. The Applicant complained about the increased cost of the management fee but provided no comparables. Ms Briggs said the cost included the handover fee from the previous managers and was reasonable.

**£8541 – remote controlled barriers.**

46. Ms Briggs said that the s.20 process for these works was not challenged. The work was carried out to prevent fly tipping and unlawful car parking.

**£757.13**

47. The Respondents accepted that the invoices added up to £432.13 which is the sum allowed.

**£612 – covenant review**

48. This was the covenant review carried out by Whitestones the new agents.

**The Section 20 process**

49. The Applicant challenged major works that were subject to a s.20 consultation. He accepted the notices were served and did not challenge the process. He said that the consultation was rigged because his proposed contractor had not been contacted. Ms Briggs refuted this allegation. The Respondents had gone with the lowest tender at a contact price of £42500. She denied receipt of an alternative quote from the Applicant's favoured builder "Danny". She denied any connection between the chosen contractor Kalochi and the managing agents.

**Determination**

50. The Tribunal had considerable difficulties initially identifying exactly what the Applicant was challenging. He spent a lot of his challenge making serious allegations against the managing agents ABC. These allegations were outside our jurisdiction in any event. He failed to properly focus on issues he was challenging that were within our jurisdiction. For instance, he failed to put forward alternative quotes which were reliable.

51. The Tribunal determines that all of the costs contained in the Scott Schedules prepared by Ms Briggs in which she responds to the challenges brought are payable save for the following:

- The accountant's fees are limited to a total of £500 per annum. The Applicant, who is an accountant, had valid concerns about the way the accounts were prepared.
- The managing agent charged for specification but did not produce them. The total cost was £3440 . The Tribunal allows £1720.
- The invoice for £1086 for electrical works is disallowed as there was no evidence that the work was communal.
- The sums of £120 and £192 for which no invoices were provided are disallowed.
- In relation to the claim for £757.13, £432.13 is allowed.

52. Other than these variations all of the costs in the Scott schedules prepared by Ms Briggs are allowed. In relation to the s.20 major works there was no evidence that the consultation was rigged. The Respondents appointed the contractor with the lowest tender and the process was watertight.

### **Section 20C Landlord and Tenant Act 1985**

53. The Applicant's misguided challenge put the Respondents to considerable work. The Tribunal is indebted to Ms Briggs for focussing in on the issues that we had to deal with. She would undoubtedly have spent a long time preparing her Scott Schedules. The Applicant lost on the vast majority of his challenges. The Tribunal refuses to exercise its discretion and the Respondents are entitled to recover their legal costs from the service charge.

Judge Shepherd

12<sup>th</sup> May 2023

### **RIGHTS OF APPEAL**

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the

First-Tier Tribunal at the Regional office which has been dealing with the case.

2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.